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An Ethnography of Brand Piracy in Guatemala

Abstract

An important dimension of contemporary capitalism is the global spread of intellectual property rights law, drawing new attention by governments and media to the unauthorized copying of fashion brands. In this dissertation, I draw on sixteen months of ethnographic research with small-scale, indigenous Maya garment manufacturers to examine the cultural and moral context of brand piracy in Guatemala.

I analyze what practices of copying and imitation, some of which qualify as piracy under national and international law, among Maya manufacturers reveal about two aspects of the social field: first, changing economic and cultural conditions following waves of neoliberal economic and legal reform, and, second, the nonlinear reproduction of forms of moral and legal reckoning at the margins of the global economy and amidst mounting insecurities that include rising violent crime rates and legal impunity for violent crime. I examine how practices of copying and imitation among manufacturers and competitive behavior more generally are evaluated locally in light of kin relations that promote the sharing of knowledge and resources within a somewhat loose property regime and given ideologies of race and nation that encourage class-based solidarity among Maya people. I find that the normative models and business practices evident among these manufacturers parochialize official portraits of progress, business ethics, and development promoted in neoliberal policy agendas and international law.

In addition, I analyze significant gaps between what fashion and branding mean in Guatemalan Maya communities and how they are understood in international projects of legal harmonization that are also about re-branding and re-imagining the Guatemalan nation. Neoliberal statecraft following a long internal armed conflict in Guatemala involves policy approaches that amplify the presence of global brands while compounding conditions of social and economic inequality that limit Maya men and women's access to authorized goods. Meanwhile, Maya people are invited to participate in a modernist vision of citizenship and social progress that encourages a privatized model of indigenous identity mediated by branded commodities and formal market transactions. The brand emerges as a powerful medium through which claims to legitimacy and authority and senses of belonging are negotiated at national and local levels.

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Introduction: Postwar Style

I sometimes took evening walks with friends and informants through Tecpán, the highland Guatemala town where I carried out the ethnographic research for this dissertation. The central plaza, a paved square edged by the colonial-era Catholic church and town hall, bustles after sunset with taco and *shuco* vendors offering cheap dinner fare. Adolescent boys kick soccer balls back and forth across the pavement. Old women sell *atol*, a hot beverage made of rice or corn, from heavy baskets and wooden carts. Dozens of young men lounge against the basin of the empty fountain or stroll the plaza. They all wear *sudaderos*, sweatshirts with oversized hoods pulled up over gel-drenched hair and shadowing their pimpled faces. Each of these sweatshirts features a US brand name – Abercrombie & Fitch, Hollister, or Ecko – splashed across the front. A pair of torn and faded blue jeans with wide legs and a pair of shiny black leather shoes – freshly polished by one of the adolescent boys lugging wooden shoe-shine kits and shouting “*lustre, lustre!*” – completes the look.

The sweatshirts these young men wear are part of the global piracy trade. Pirates are fascinating figures in the Western social imaginary. “The pirate,” writes one historian, “has become an instantly recognizable and identifiable image,” a symbol of “rebellion against authority” (Konstam 2008: 8). Pirates are liminal figures who “operate on the margins of acceptable society” (7), troubling the boundaries of the economy, the law, and especially, the nation-state. “Pirates deny the legitimacy of nations by taking their stuff,” writes literary scholar Talissa Jane Ford (2008: 12). She continues,

“Historically, pirates were deemed *hostis humani generis*, the ‘common enemy of mankind,’ and therefore outside the law; in some fundamental (legal) way, they didn’t count. ... Upon turning pirate, they forfeited all national identity” (13). This dissertation is concerned with the lived experience of people who are dubbed “pirates” under new international legal regimes because they copy fashion brands. What Arjun Appadurai (1996) calls “modernity at large” involves the worldwide consumption of commodities that reference other places and temporalities and denote status, power, and affiliation. The ethnographic investigation of clothing has been important for understanding the globalization of particular cultural styles, dress as a marker of social distinction and a cultural practice that shapes relations of gender, class, national identity, and ethnicity, and how fashion figures into hegemonic political projects of control and subordination.¹ Fashion brands have received less attention even though the brand form, what Rosemary Coombe calls a “hallmark” of late modernity (1993: 413), is integral to globalized material culture (Miller 1994; 1997).

An important dimension of contemporary capitalism is the spread of intellectual property rights (IPR) law to the developing world,² drawing new attention on the part of law enforcement, government officials, and the media to the unauthorized copying of

¹ On cultural styles, see Ferguson 1999; Brydon and Niessen 1998; Hansen 2000; and Niessen et al. 2003. On dress as a cultural practice, see Banerjee and Miller 2003; Kondo 1992; Moeran 2004; Polhemus and Procter 1978; and Tarlo 1996. On colonialism and the politics of dress, see Allman 2004; Comaroff and Comaroff 1997.

² My use of the term “developing” in this dissertation is strategic and intended to call to mind the teleology of development that accompanies processes of economic and legal globalization.

fashion brands.³ The World Trade Organization's Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement, signed by member states in 1995, tied international trade policy to intellectual property law and signaled a new era in the globalization of IPR protections. Despite the subsequent process of legal harmonization across member states, however, practices of piracy and counterfeiting in developing countries like Guatemala are on the rise. As a recent study of piracy explains, "We have seen little evidence – and indeed few claims – that enforcement efforts to date have had any impact whatsoever on the overall supply of pirated goods" (Karaganis 2011: iii). According to US recording and film industry estimates, digital piracy comprises 82 percent of the music market in Mexico and 90 percent of movies in India (Karaganis 2011). The unauthorized reproduction of fashion brands represents a \$350 billion market worldwide (Hilton et al. 2004).

Maya people are not just consumers of pirated fashion brands. They make pirated apparel and sell it in regional markets and city streets.⁴ Situated on the Pan-American Highway about an hour's drive from Guatemala City, Tecpán is an important center of nontraditional clothing production for Guatemala's domestic market. In a town of approximately 20,000 people, the majority Kaqchikel Maya, there are hundreds of Maya-owned garment workshops. Most consist of a few knitting and sewing

³ See Prendergast et al. 2002; Yang et al. 2008; and Chaudhry 2006 on emerging law enforcement efforts and other state interventions aimed at controlling piracy and counterfeiting.

⁴ Business and legal scholars have recently begun to distinguish between counterfeits, which are manufactured to pass as authorized goods, and "non-deceptive fakes" or "pirated" goods (Prendergast et al. 2002: 406), acknowledging the fact that trademarks are often appropriated in ways that may be illegal but not intentionally deceptive. I use the term "piracy" throughout this dissertation for this reason – the unauthorized use of brand names in Guatemala's domestic apparel trade generally falls into the non-deceptive category.

machines housed in a spare room of the owner's home. The largest producers employ dozens of workers at sewing machines and own high-capacity knitting machines that can turn out a hundred sweaters per day. They manufacture stylish clothing to sell in regional marketplaces and to urban wholesalers, most of which features unauthorized brand names such as Converse, Lacoste, and Tommy Hilfiger or, in the case of children's clothing, unauthorized cartoon characters from Walt Disney and Nickelodeon. Pirated logos, labels, and tags are easy to come by. Local embroidery shops reproduce the most popular labels to varying degrees of verisimilitude. Producers travel to markets in nearby departments – Totonicapán, Sacatepéquez, or Guatemala (the capital district) – to purchase brand-name tags and labels in bulk or order them from local embroidery and screen-printing shops. They also purchase tags, size stickers, and embroidered logos that have been snuck out of maquiladoras, the large-scale factories where authorized name-brand clothing is assembled for export.

My goal in this dissertation is to analyze the cultural context of brand piracy in this marginal corner of the fashion industry and to situate the business ethics and moral economy that guides piracy production within broader debates regarding the global spread of intellectual property frameworks. I use the term *ethics* to refer to the metadiscourse among piracy producers regarding proper marketplace behavior. My use of the term *moral economy* follows the work of James Scott (1976) and references deeply-held ideas about economic justice and community obligations that structure property relations and social interactions among garment manufacturers and other town residents. I understand the moral economy of Tecpaneco producers as one aspect

of the “local moral world,” where social participants have strong commitments “about what is at stake in everyday experience” (Kleinman 1995: 45). Both ethical discourses and moral commitments are integral to how garment manufacturers reason about the law and other state institutions.

What people make and wear and what it means to them also offers a critical lens for examining practices of postwar statecraft in Guatemala. Tecpán’s garment manufacturers not only “trouble the boundaries” of the nation-state because they are pirates, but also because they are indigenous, part of the country’s Maya majority that has been a “finger in the wound” (Nelson 1999) of the Guatemalan elite and their hopes for a “modern,” that is, not traditional and not ethnically- or culturally-marked nation, since independence from Spain in 1821. Nearly four decades of internal armed conflict, including a genocidal campaign against the Maya people, came to an end in Guatemala in 1996. As part of the state’s postwar effort to establish rule of law (Sieder 2003) and in compliance with TRIPS and other multilateral trade agreements, the national legislature recently strengthened the country’s IPR protections. Trademark laws, which effectively criminalize Maya people who affix Nike and Tommy Hilfiger logos to their shirts, are mandatory for participation in international trade. The adoption of these laws is also a symbolic statement about national sovereignty at a time when many people, including Mayas, say that things are worse – more violent, more uncertain, more corrupt – than during the war.

“Postwar” Guatemala

After one stroll through the plaza in Tecpán, I jotted down in my field notes: “With all of these guys wearing the same clothes, it must be hard for *Tecpanecos* to distinguish between the *delincuentes* and the ‘regular’ kids!” Delinquency is a frequent topic of conversation in Tecpán, a running commentary on the level of insecurity that people face and the corrupt youth who are presumed to be the cause. Indeed, I was discouraged from taking my evening walks alone, told by friends and informants that the youth strolling the plaza in their hooded *sudaderos* are delinquents, maybe even gang members, prowling for people to rob and assault after dark.

The internal armed conflict may have ended more than a decade ago, but everyday life for many Guatemalans continues to be fraught with violence. Guatemala has the fourth highest murder rate in the world, due mostly to drug trafficking between South America and the US (UNODC 2010) and indicative of a regional spike in transnational gang activity over the past ten years. Neighboring El Salvador and Honduras rank first and second in per capita homicides globally (OCAVI 2006; El Heraldo 2011). Besides the drug trade, paramilitary groups of ex-soldiers carry out so-called “cleansing” campaigns against Guatemala City’s poor (Sanford 2008). There are political assassinations, and gangs wage brutal turf wars and command extortion rings that target businesses (O’Neill and Thomas 2011), including the small clothing workshops in Tecpán that are the subject of this study. Everyone I spoke with over the course of my field research had been witness to or victimized by crime, from the armed robberies that are daily occurrences on the public buses that run up and down the Pan-American

highway to hold-ups outside banks and ATM machines in the capital city. To understand the piracy of global brands in this setting – why Maya people engage in illegal activity and how the law impacts their lives and livelihoods – it is necessary to see Guatemala for what it is: a place where almost everything is illegal, informal, or illegitimate, where opportunities for education and formal employment remain severely limited for Mayas, and where various forms of insecurity are routine parts of everyday life.

Most recent scholarship in Guatemala has taken the armed conflict, its legacy of violence, the promises and failures of the peace accords, and the struggles for indigenous rights that became central to the peace negotiations as focal points. Even fifteen years later, anthropologists have been reluctant to move beyond the “postwar” period, and, indeed, the titles of my own research papers and published works have often included this modifier. One goal of my research and writing, however, has been to maintain a sense of the historical and cultural importance of the war without allowing issues that were so crucial to Guatemalans and Guatemalanists in the 1970s and 1980s to wholly determine the scholarly conversation. A preoccupation with the conflict era, I contend, can sometimes obscure aspects of how the conflict’s legacies are actually playing out. Processes of democratization and judicial reform, integration into the global economy, even indigenous rights struggles and current levels of violence in Guatemala cannot be adequately understood as simple byproducts of the armed conflict and peace accords, nor is the armed conflict a sufficient context for analyzing how these processes continue to evolve. For example, I have sought elsewhere to understand contemporary crime and violence in Guatemala not as an inevitable outgrowth of the war years, but as

a complicated context of economic, physical, and existential insecurity tied to rising levels of inequality, the hemispheric drug war and the related influx of transnational gang activity into Guatemala's capital and border regions, and the historical marginalization of the capital city's indigenous population, poor classes, and women (Thomas et al. 2011).

Following the lead of anthropologists of Guatemala and Latin America including Eric Wolf, Carol Smith, and June Nash, I argue there is an urgent need to understand Guatemala within a broad context of world systems and transnational processes, and find it crucial to write on topics and in ways that speak to anthropologists outside the region. I hope that in doing so I might encourage comparative analysis of the problems and promises with which Guatemalans are today faced. Thus, in this dissertation, I draw inspiration from property debates in Melanesia, postcolonial studies in South Africa, and ethnographic analyses of brands in Southeast Asia as well as from historical and ethnographic work in highland Guatemala. Although the Guatemalan highlands offer a special vantage point for understanding the intersection of branding, style, postcoloniality, and indigeneity, the research on piracy and petty capitalism that I undertook in Tecpán could have, in fact, been done almost anywhere in the world. I see this fact as an opportunity to write the highland Maya into stories about global capitalism, modernity, and transnational issues of law, security, and style in ways that have not been done before, possibly to the detriment of our understanding of precisely how highland Maya men and women understand their own connections to other places and people.

Maya Fashion

Guatemala is perhaps best known for traditional clothing. Hand-woven *huipiles* (blouses) and *cortes* (skirts) worn by Maya women adorn the pages of guidebooks and illustrate tourism websites and advertising. People who might have been killed during Guatemala's internal armed conflict if they seemed a bit too proud of their indigenous heritage – ethnic difference read as communism to justify atrocity – the Maya and their textiles are now the primary selling point for attracting foreign dollars. The state and private enterprise capitalize on culture to create a national brand around indigeneity.

For example, an internet advertisement from Guatemala's National Tourism Institute displays the crisp blue of Lake Atitlan, a favorite tourist destination, and reads, "With your vote, we'll be one of the seven natural wonders of the world." The ad references an online contest sponsored by the United Nations. It is not entirely clear whether the "natural wonder" the text references, however, is the volcanic lake or the indigenous woman, dressed in her *huipil* and *corte*, who is pictured in the foreground of the advertisement. She stands with her back to the viewer, gazing out across the lake, and carries an infant on her back, tucked snugly inside the *peraje* (shawl) cinched tightly around her shoulders. This kind of image participates in a pervasive cultural politics in Guatemala, where the Maya woman, and her clothing, are appropriated as a basis for nationalism (Nelson 1999). Naturalized as a static custom, her clothing serves as a reference point for tradition and a counterpoint for what it means for Guatemala, and Guatemalans, to become modern and developed, not part of a natural landscape. She is,

quite literally, the progenitor of Guatemala's national culture and, at the same time, a symbol of the country's native past, with her back turned to the presumably modern viewer and the digital age he inhabits. This politics covers over the deep historical and ongoing subordination of indigenous people in Guatemala. It also illustrates how indigenous clothing is treated as a kind of property, the cultural property of the state, packaged and sold to foreign audiences.

During preliminary fieldwork, I apprenticed with a traditional weaver, a woman from the small highland town of San Antonio Aguas Calientes, and learned to speak Kaqchikel Maya, one of more than 20 languages spoken in Guatemala and the primary indigenous language spoken in and around Tecpán. Women are less likely to be bilingual in Spanish than indigenous men, part of a long and familiar history of women belonging to private spheres and men to public ones. This public-private divide also means that indigenous men are much less likely to wear *traje*, or traditional clothing, than indigenous women. Colonial sumptuary laws required Maya men who held political or religious office and interacted with the Spanish to wear shoes, long pants, a collared shirt, and a hat (Carrillo Ramirez 1971: 49; Otzoy 1996). Today, this colonial vestige is ironically seen as a traditional outfit for older Maya men in many parts of Guatemala.

Women's *traje* is "a symbolically rich, polyvalent and visually stimulating domain of representation," writes the anthropologist Edward Fischer (2001: 117). Carol Hendrickson notes that for many Maya men and women, "there is an ideological and emotional identification with *traje* such that dress is inextricably associated with the person's very being." There is a felt "equivalence between dress and cultural heart," she

writes (1995: 193). *Traje* is an important marker of ethnicity as well as geography. Each town in highland Guatemala has its own distinctive *traje*, and, in the past, the color, style, design, and manner of wearing traditional dress signaled the municipality from which the wearer originated (51). Today, it is increasingly common for Maya women to wear styles from various towns, a trend promoted by leaders of the pan-Maya movement, a loose affiliation of cultural rights activists, during the peace process to encourage a sense of commonality and solidarity among indigenous Guatemalans regardless of regional, linguistic, or historical differences.

Among younger generations, there are other rapid and significant transformations going on in how Maya people dress. Women's *traje* is, of course, a dynamic system – weaving is a lively and competitive business, styles change from season to season, and older women like to complain about “how the young women dress these days”: too many flowers in the designs, the colors aren't properly coordinated, no one wears the *huipiles* that come from their hometowns anymore. But, increasingly, indigenous Guatemalans wear what might be called Western styles: t-shirts and sweaters, baseball caps, jeans and sneakers. Among teenagers and young adults – mostly men, but increasingly women, too – what is popular are global brands such as Nike, Converse, Diesel, and Lacoste. The Maya men and women who sport these garments participate in a local scene where particular looks are as carefully crafted as hand-woven *huipiles*. It is a fashion system every bit as wrapped up with local histories, questions of citizenship and the state, and dynamics of tradition and modernity as is the “traditional” dress worn by older generations.

Given the strong personal and political significance of *traje* in Guatemala, why are so many Maya youth and adults wearing *vestido*, the “common clothes” that reveal a “foreign element in clothing merchandise and fashion (inspiration)” (Hendrickson 1995: 66)? Certainly, nontraditional clothes can be much cheaper than hand-woven *traje*. There is also the fact, noted above, that men have been wearing European-style pants and shirts for a long time. Perhaps young Guatemalans want to be viewed by their peers as in-style, and in Guatemala as in many other places, this means adopting clothing that is recognizably popular within the global fashion system (Barthes 1990), what Appadurai (1996) might call the contemporary “fashion-scape.” The privatization and consolidation of media, the rise of transnational capitalism and global marketing, and the proliferation of communications technologies conspire to pare down the kinds of messages and images to which people are exposed, leaving youth around the world with a rather homogenous vocabulary for expressing taste and style. This pattern of “taste transfer” from center to periphery thus fuels the globalization of consumption patterns (Appadurai 1993: 419). Youth in Guatemala are regularly exposed to the brand names, looks, and styles promoted in advertisements, on television, online, and in department stores as “fashion.” They listen to Latin and US pop music during the day and watch Argentinean, Mexican, and US cable channels at night. They head to internet cafes after school or work to download music, watch movie trailers, play video games, and surf entertainment sites. The fashion styles of soccer players, singers, film stars, and television actors become topics of conversation and influence style choices.

Certainly, brand piracy, and fashion design and consumption conceived more broadly, are, at base, acts of imitation and mimicry. Carol Hendrickson catalogues newspaper advertisements in Guatemalan dailies from the early 1980s promoting “American sweaters with buttons,” “Clothes with the stamp of Europe,” and “Exclusive designs in sports clothes, imported directly from Europe and the United States” (1995: 69). She also recalls a children’s game played in Tecpán that asks,

A: Where are you coming from?

B: From New York.

A: What did you bring?

B: Something really nice.

A: What letter does it start with?

B: With ____ . [names the first letter of the object; A then tries to guess the object] (Hendrickson 1995: 70)

Things do travel between Tecpán and New York, or at least New Jersey, where several dozen Tecpanecos have settled as immigrants. At least two men from Tecpán who were able to obtain extended travel visas to the US now make regular trips, sometimes multiple times per year, to carry everything from clothing to photographs to tortillas and fried chicken back and forth between these usually undocumented ex-patriots and their families. But, many Tecpanecos have a complicated and critical relationship to the US, which is not surprising given the nation’s history of interventionism in the region and its ongoing role in shaping domestic policy. As discussed in Chapter 3, for instance, although imitations of US brands and fashion styles might be popular among many town

residents, there are also complaints about how the Guatemalan government imitates US development models seemingly without concern for the effects those policies have on ordinary people, the environment, and local values.

Moreover, imitative flows are never unidirectional (Taussig 2009). Fashion styles in Guatemala, even when modeled on US and European designs, cannot be said to simply follow from foreign trends. Guatemalan youth style is not merely the same as youth style in other parts of the world. Even if Abercrombie & Fitch logos are ubiquitous among Indian Tamils and Guatemalan Mayas, the look of Maya fashion remains unique. There are distinctive regional influences, especially from Mexican popular culture. Maya men and women who migrate to places like New Jersey return to the highlands having adopted elements of Latino and Chicano and other dress styles, and, in turn, set new trends in their hometowns. Even when apparel producers said to me that the popularity of brands and styles depends on “*como se mueve lo original* (how the original is ‘moving,’ or selling),” the term “original” indexes a set of spatial, class, and ethnic divisions that structure consumption patterns in Guatemala rather than an authorized brand name or “authentic” garment that comes from somewhere else (see Chapter 4).

Fashion in highland towns such as Tecpán also reflects a more generalized look and feel that describes daily life in that region. An oversized logo on an Ecco sweatshirt appears as one more iteration of an effusive aesthetics that makes life in rural Guatemala visually loud. The second-hand US school buses operated by private transportation companies in Guatemala are famously painted in bright hues of blue and red and green, with streamers and reflective stickers and stuffed animals and blinking

lights strung inside and out, and high-powered speakers blasting *norteña* music. The same goes for *tuc-tucs*, the motorcycle taxis imported from India that fly through the streets of Guatemalan towns, sporting brightly-colored decals, bold paint jobs, and custom electric horns that blast a popular song or a humorous sound effect. This is not to mention the striking colors and patterns of indigenous dress. This aesthetic effervescence links together Christmas Eve fireworks shot off from every home in town, to the enormous speaker systems rented out for baptisms and weddings so that entire blocks are forced to share in the celebration, to the reflective decals proclaiming “*Dios Es Amor!*” on the front of highway buses. Each of these examples is a mode of expression and an affective moment in which people are not so much attempting to signify something about themselves or their relationship to the West or to “fashion,” for instance, as simply being part of the scene.

But, have young people in Tecpán lost something of their “Maya identity” by wearing *vestido* adorned with global brands? Are they hiding ethnic heritage behind Western fashion styles? This is a common assertion among some Tecpanecos who read the popularity of nontraditional clothing as a sign that young people have forgotten “*los abuelos*” (the ancestors) and lost respect for the old ways of doing things. Middle-aged men often commented to me that they are embarrassed that so few men in town now wear the loose-fitting cotton pants, collared shirts, and *rodilleras* (folded cloth, secured by a belt, that drapes down to one’s knees) that Maya elders in Tecpán once wore, seeing it as a sign that they themselves have lost some of their “cultural values.” Tecpanecos often state that women who continue to wear *traje* are braver (*más*

valiente) in the face of ethnic discrimination and the pressures of modernization (Hendrickson 1995: 119; Otzoy 1996).

The search for authenticity and the recuperation of lost values are themes that will arise throughout this dissertation in relation to what people wear in Guatemala, the kinds of work they do, the language they speak, and even the socioeconomic class to which they belong. Although these issues are genuine concerns among the people I got to know in Tecpán, my analysis agitates against any kind of scholarly search for authenticity in Maya styles or ways of life. Such a search could too easily take on the tone of an intellectual property regime that narrowly ascribes authenticity and authority based on an abstract set of rights as well as the contemporary politics of multiculturalism in Guatemala that claims to bolster inclusivity but so often incites the gross reduction and objectification of cultural difference. Following Beth Conklin (1997), I suggest that searches for authenticity in indigenous dress styles more often reflects the hegemonic demands, desires, and expectations of the West and its institutions rather than historical realities or even the lived experience of indigenous peoples themselves.⁵

As one might expect, the superficial homogeneity of youth style in Tecpán that I initially noted in my field journal gives way, on further inspection, to an array of differentiated looks and styles. There is, for example, the “*ponky*” style, popular among a small segment of young men in Tecpán, that exhibits the influence of US and European punk fashion in its rock-band t-shirts, chain wallets, faded Ecko or Diesel jeans, and mohawk hairstyles. Youth are quick to point out the wide gap they perceive between

⁵ See also Elizabeth Povinelli’s (1993, 2002) work on how Western legal systems make similar demands of indigenous people to enact and embody “authenticity.”

the “*formal*” style – consisting of Lacoste or Ralph Lauren polo shirts, fitted jeans, a *peinado* hairstyle (combed forward and secured with lots of Moco Gorilla gel), which was more popular in 2006 and 2007 – and the unmarked style that generally consists of the oversized sweatshirts or sweaters and baggy jeans so common in 2009 in Tecpán’s central plaza. There are youth who prefer *chapulines*, the colloquial term for Converse sneakers, over polished leather shoes, and there are “*roqueros*” who keep their hair long instead of short and heavily gelled.

Each of these styles says something about the class and social position of the youth who adopt it, and most men seem to outgrow the “*ponky*” and “*roquero*” styles as they leave their teenage years behind. Within these style categories, there are also more or less expensive versions, depending on whether one can afford the more “original” garments purchased in Guatemala City or in retail stores in Chimaltenango or if one must settle for the “*imitaciones*” hawked in the municipal market. Traveling to the capital to buy clothes can involve a degree of risk, however, since one can be *engañado* (tricked) by the high prices of urban shopping. As one young man who had worked in Tecpán’s apparel trade for several years explained to me, “Sometimes my friends go into the capital to buy clothes before school starts, and when they get back to Tecpán, they see the same shirt for sale at a local store. They paid 100 *quetzales* for something that was made here, in Tecpán! They could have bought it here for 40, from the guy who made it.” Although IPR scholars insist that trademark law is necessary for avoiding marketplace confusion (see Chapter 1), this is hardly the context of trickery they presumably have in mind.

Fashion Statements

The chapters that follow explore multiple layers of values, norms, and modes of legal reasoning that inform how Maya garment manufacturers understand their work, including practices of copying and imitation criminalized as piracy. In the course of this analysis, I discuss how people in Tecpán talk about class, gender, and ethnicity, including what it means to them to be Maya when one works in commerce rather than subsistence agriculture and adopts a relatively middle-class lifestyle, given the stereotypical portrait of an uneducated, agrarian, indigenous peasantry that is so central to the politics of citizenship and identity in Guatemala. I outline grand histories of legal and economic globalization, the evolution of trademark law, and the legacies of corporate strategies to thwart counterfeit production. I trace small histories of people struggling to come to terms with a violent past and earn a living amidst rising insecurities. Themes of rural and urban space become important as I examine the local worlds of garment manufacturers whose geographical orientations are also moral bearings. Spatial imaginaries build up around particular spaces – the coastal plantation, the rural hamlet, the capital city – and powerfully shape ideas about work, health, crime, and community.

Another part of what this dissertation seeks to accomplish is to understand fashion styles and “cultural styles” (Ferguson 1999) from the perspective of people who produce them, but who are also utterly marginalized in international law and in the global fashion industry. Here, I provide just a brief example from perhaps the most

marginalized of the style-producers in Guatemala, the garment workshop employees. While workshop owners talk about the importance of creativity and design sensibilities for their success, workshop employees are valued more for their diligence and industry than for their stylishness or creative spark. Depending on whether they work in shops that produce school uniforms or knock-off polo shirts, however, employees may see themselves as active participants in the development of fashionable styles.

In one of the *fábricas* (factory or workshop) where I worked for several months as part of my research, I occupied my time at a sewing machine, stitching together the bodices of sweaters that would eventually be sold in highland markets, and making conversation with the teenage boys sitting nearby at their own machines.⁶ At ten o'clock each morning, we took a half-hour break, referred to as "*la refa*," short for "*refacción*," or snack. The *refa* is part of the routine at every workshop in Tecpán. It is something of a ritual in town. Old women set up small tables in front of their homes to offer mugs of hot cereal and French bread smeared with refried black beans or guacamole to the workshop employees who pour out into the streets each morning. The young men I worked with checked the time compulsively on their cell phones as the appointed hour approached, not wanting to miss a minute of their break time. At ten o'clock sharp, we jumped up from the sewing machines and paused the automatic knitting machines, and then filed out the door to find a cheap bite to eat. Sometimes we bought from the old

⁶ Whereas the large-scale *maquiladoras* that produce name-brand merchandise for export typically employ young women, garment workshops in Tecpán almost exclusively employ men. As discussed in Chapter 2, garment production is overwhelmingly gendered as male work.

ladies, sometimes we opted for a sweet roll from the bakery a few houses down from the workshop or a bag of chips from the *tienda* across the street.

Most days, we grabbed a snack and then started walking. We frequently made our way to the main street through town to visit the Tigo or Movistar cell phone retailers, check out the latest models (and the young women working as sales clerks), and find out about offers on *saldo*, or pay-as-you-go cell phone minutes. The young men, who earned an average of 50 *quetzales* (about US\$7) per day, always found five or ten *quetzales* to spend on *saldo* they used to send text messages to girls during the day or make quick calls to friends in the evenings. Some of them had phones with memory chips that could hold several dozen mp3 format songs, and all of them regularly downloaded ring tones at two or three *quetzales* each that featured snippets of popular *bachata, cumbia, reggaetón, or rock en español* tunes.

The *refa* was an ideal time to browse vendors' offerings on market day in Tecpán. Each Thursday, we made a wide loop through the crowded plaza to survey the market stalls, especially the clothes. Whereas the retail shops in Tecpán generally carry a mix of imports from China and Mexico and sometimes overruns from Honduran and Guatemalan maquiladoras in addition to various garments made locally or in similar workshops in Guatemala City or other highland towns, the market vendors deal almost exclusively in "*producto nacional* (products made in Guatemala)." Vendors who sell in Tecpán travel to larger market towns – Guatemala City, Xela, Totonicapán, and San Francisco El Alto – to buy from wholesalers, or buy from the local producers who visit them each week to sell a few dozen shirts, sweaters, sweatshirts, or ball caps. The

market is full of global brands, from Hollister and American Eagle sweatshirts to Levi's, Jingo, and Diesel denim, women's sweaters with White Stag labels, and men's sweaters with Tommy Hilfiger logos. I never saw one of the young men purchase anything, though they frequently engaged in conversation with the only slightly older vendors about which styles were the most popular, even trying on a shirt or sweatshirt to check the fit.

Back in the workshop one afternoon, Armando, one of the young men who worked at the automatic knitting machines, was sorting through a pile of fabric and stashing a few pieces in a plastic supermarket bag. I asked Armando why he was sorting through the remnants. He replied that he was going to make himself a hooded sweater, adding that all of the *chavos* (guys, his fellow employees) did this, fashioning their own clothing from discarded material. Although most machine errors could be fixed with a needle and thread, there were inevitably pieces with too many mistakes to warrant the time it would take to mend them as well as remnants from the cutting stage of production. When I asked the other young workers, they all agreed that these pieces were good for making clothes for themselves, and one of them said that he had made the sweater he was wearing in this way, even affixing to it a patch with the Converse sneakers logo he purchased in the market for a few quetzales.

Armando, who at 18-years-old had worked in the garment trade for three years, was always looking for something to occupy his time. The routine of running the knitting machines bored him, and my entrance into the workshop was a welcome distraction since he could teach me the work and chat with me between changing the threads on

the machine or fixing a mistake. The workshop owner had taken some time to mentor Armando, whose pleasant demeanor, intelligence, and adeptness with both operating and repairing the machinery made him a valuable employee, so that Armando had also learned some design techniques and how to operate every piece of equipment in the workshop. Like the other young employees, Armando was resourceful, and making his own clothes out of remnants made sense given the skills he were learning in the trade and the impoverished conditions in which he lived with his mother and four siblings in a village just outside of town. He could little afford most of the styles we saw in retail stores or even in the municipal market stalls. But, like the other employees, he picked up on fashion trends during our walks through the market and in conversations with the vendors each Thursday and tried on garments to find the right fit for the next sweater, sweatshirt, or t-shirt he might make for himself from the knit and other textiles he could scrounge together at work.

Homemade *vestido* is considered the least prestigious among the various types of nontraditional clothing available in Guatemala (Hendrickson 1995: 67), even less desirable to some people than second-hand clothing from the US (see Chapters 2 and 4). Yet, the young men I worked with saw the clothes they made for personal use as distinct from “homemade” clothing, since they were using industrial machinery, and not the “domestic” sewing machine models gathering dust in the homes of their mothers or grandmothers (see Chapter 2). And, although their design work was limited to what they could gather up from the sewing tables and piles of remnants in the workshop, they took great satisfaction in this design work. As Armando crafted his sweater during the

lunch break and after hours over the next two weeks, he and the other teenage employees sometimes looked over the incipient garment, joking with him that the fit would be way too loose around his skinny body or admiring the way he had joined two remnants to make a deep V-pattern in the back of the bodice. He crafted an oversized hood for the sweater, similar to the styles we had seen in the market, and added his own touch in the form of a shallow cut in the front collar tied up with laces.

Armando showed off his finished sweater late one afternoon, and the workshop owner, who was surveying what we had accomplished that day and figuring how many hours it would take to finish filling the order he planned to deliver to the market later that week, paused to admire it. Everyone in the apparel trade in Tecpán learned design, cutting, and assembly through a similar process of trial and error, often working closely with older relatives or employers, and Armando was learning the trade and improving his skills at the same time as he was participating in the production of new styles. His sweater was an imitation, but also a creative interpretation, of that season's market offerings. It was a collective project, in which several young employees had input. It was also an improvisation crafted from the leftovers of the production process, much as Tecpán's apparel trade has been largely cobbled together from the leftover machinery and second-hand instruction manuals from the developed world's now defunct textile and apparel industries, the leftover tags and labels and imperfect fabrics from the developing world's maquiladoras that replaced those industries, and the copies of copies of imported, "original," and second-hand garments that circulate in Guatemala.

Some Notes on Methodology

In the chapters that follow, I draw on sixteen months of ethnographic research in garment workshops and informal markets where clothing is sold. This research was carried out between 2006 and 2009, including a year-long investigation in 2009, during which I conducted ethnographic interviews with more than 100 clothing workshop owners, employees, suppliers, wholesalers, and retailers in Spanish and Kaqchikel Maya. I also surveyed approximately 250 clothing vendors in municipal markets and retail stores throughout Guatemala, and worked on an unpaid, flexible basis in two apparel workshops. I spent time in dozens of workshops to observe the design, production, and marketing processes and had daily informal conversations with people involved in the apparel trade and town residents. Brand piracy is a public and generally-accepted practice in Guatemala, and Tecpán is a well-known center of clothing production. Nonetheless, all names and identifying characteristics have been changed in this dissertation to protect informants' identities.

The recent criminalization of brand piracy and informal nature of apparel production in Guatemala posed particular methodological obstacles during my investigation. For example, at the end of an otherwise routine, hour-long interview with one clothing manufacturer, he suddenly changed the tone of the conversation and asked,

You know that you are lucky that I am talking to you, don't you? There was another foreigner here a few years ago, asking questions about our businesses, and when we found out that she was telling the government everything that we

were doing – where the factories were, who wasn't paying taxes, who sells the popular brands – everyone got together and threw her out.

The gist of this warning probably sounds familiar to many researchers whose investigations touch on illicit practices. At the time, it was unsettling and a bit confusing. I thought I had followed procedures to mitigate any potential risks to people involved in the research and avoid this kind of response. On this occasion, I had asked a close informant and neighbor of this producer to arrange the interview and make introductions. I opened the conversation with a set of rehearsed assurances regarding confidentiality and anonymity. Yet, this person still offered up the thinly-veiled threat, and not just on his own behalf but on behalf of “everyone,” all those whose ability to earn a living and participate in a valued form of work might be threatened if the wrong information ended up in the wrong hands.

These threats followed on the heels of a quick set of questions I posed about the use of Abercrombie & Fitch logos on the sweatshirts manufactured in this producer's workshop. I also asked to take a few photographs of the final products. Brand piracy can be a sensitive issue among apparel manufacturers. International trade agreements, the Guatemalan state, and the national media characterize piracy as a serious crime (see Chapter 1). Research on brand piracy could easily start from this premise as well, with the research program built around questions and hypotheses having to do with the “problem” of piracy and how actual pirates respond. Such a project would begin with a narrow view of pirates as law-breakers and then investigate why deviance is prevalent within this particular population of Maya entrepreneurs. Many studies of consumer

behavior have been carried out in this manner, asking consumers if and why they might be inclined to purchase a pirated product rather than an authorized original (Albers-Miller 1999). Ethnography pushes the researcher to approach illicit behaviors from a different perspective, however. Bracketing social science explanations regarding the significance of brands and the importance of strong intellectual property rights, I approached apparel manufacturing in Guatemala with open-ended questions about how brands are used, what they signify, and how branding figures into a broader context of commercial and social life.

I raised sensitive questions about the illicit nature of these activities only after extended interaction with a given informant. For most manufacturers, the illicit nature of brand piracy is basically an afterthought, at this point not an issue that directly impacts them, though there is a general sense that copying a Tommy Hilfiger logo could get one in some kind of financial or legal trouble (see Chapters 4 and 5). Manufacturers are much more concerned about keeping up with local competition and watching market trends, including what styles are gaining in popularity, and, in spite of the media stereotypes, they do not see themselves as people who live shadowed lives because of participation in a stigmatized behavior.

Admittedly, apparel workshops in Tecpán are not easy to spot. Despite their numbers – there are perhaps 300 workshops in the town center, adjacent *colonias*, and neighboring hamlets – they are generally tucked away out of sight. Knitting and sewing machines are often housed in a back room of the workshop owner's home. Employees either walk to work or ride a bicycle, which is parked out of sight in the home's central

courtyard or patio. There are no signs advertising that a home is also a clothing workshop. Publicity takes the form of handshakes and design samples traded during face-to-face meetings in municipal markets and retail stores throughout the country. Factories that are registered with the state tax and business administrations and that have the name of the business painted on an outside wall are exceptions to the general rules of secrecy and informality.⁷ Upon arrival at a workshop without an introduction from a close friend or relative of the producer, I was commonly asked if I was an agent of the state tax administration or a representative of Nike (or some other multinational apparel company) tracking down pirates.

Secrecy is motivated not only by desires to avoid interference from state agencies, police, and other authorities. Business owners in the apparel and other sectors safeguard the locations and activities of their enterprises to protect themselves and family members from crime, especially extortion, which became a problem in many business sectors in Guatemala during the armed conflict and is today sharply rising alongside all other forms of petty and violent crime (see Chapter 5). Demands for one-time or regular payments are generally accompanied by the threat of harm to one's family members made over the phone or in person by individuals claiming to be part of gangs or organized crime rings. There is also reluctance among workshop owners to share information about economic endeavors, since success in business and the accumulation of wealth are eyed with suspicion given a longstanding emphasis on class

⁷ Workshops that advertise, whether via a painted sign on the side of their home/workshop, a van with the business name on the side, a local sponsorship, or a highway billboard (I have documented a handful of cases representing each of these forms of publicity), are generally the oldest and most established apparel businesses, and were registered with the state decades ago (see Chapter 2). Their owners commonly complain about the unfair competition within the industry due to tax evasion.

and ethnic solidarity among Maya peoples and rising levels of capitalist competition among neighbors and kin (see Chapter 3).

Historical and contemporary contexts of violence, mistrust, and suspicion conspire to create a context in which secrecy is an important value among Maya apparel producers, although not one that reflects either a simple response to the criminalization of piracy or a defining cultural trait. My research reveals a complicated tension between desires to keep business practices secret to protect personal and community interests and an ethic of open exchange that has driven the commercial success of the region's apparel industry. There are important trade secrets that workshop owners strive to protect. There are also commitments to communal development that push entrepreneurs to share knowledge and resources among family members, neighbors, and employees looking to start their own workshops or build their businesses.

Through preliminary research, it became apparent to me that apart from assurances of anonymity and confidentiality I needed to work within my existing network to build contacts with apparel manufacturers during the extended research phase. When I could not secure an introduction from a close friend or family member of an apparel manufacturer, I relied on contacts who were not involved in the apparel industry, but who were well-known and well-connected in the region. It was important that I worked with indigenous men and women to make contacts, since the history of discrimination and unequal access to resources in highland Guatemala often pits indigenous people against their *Ladino* (non-indigenous) neighbors. One of my research assistants who assisted with locating factories and introducing me to owners and

employees was the daughter of a retired school teacher, and her Kaqchikel family names were immediately recognizable to many people in Tecpán. Her family's reputation and the fact that they were not involved in apparel manufacturing, which made it less likely that she would be working with me to gather secrets to help out other manufacturers, worked in our favor in meeting producers and gaining their trust.

In the course of talking with manufacturers about their lives and work, the types of questions that I asked mattered greatly in sustaining trust. Whereas asking direct questions about the use of pirated brand names could spark suspicion, asking open-ended questions about the design process proved much more successful in eliciting viewpoints on brands, property, and imitation practices. Producers are comfortable talking about the use of designs copied from imported sweaters or jackets, such as those manufactured in Mexico or Taiwan. They are also comfortable discussing the morality of copying designs (which often includes the use of particular brand names) created by a neighbor or a competitor from another town and acknowledge that the creative process depends heavily on borrowing ideas from other manufacturers. This practice becomes suspect only in certain types of cases, as when a manufacturer reproduces a competitor's design more or less exactly and then charges a lower price for the garment (see Chapter 3).

Conversations regarding the design process allowed for a discussion of intellectual property and permitted access to producers' perspectives on international trade, relationships to state authorities, and other topics integral to the research project. Precisely because I avoided asking specific questions related to the law or invoking a

discourse of criminality or deviance, the research project was successful in terms of gaining access to a population engaged in illicit behavior and documenting the social and moral context of brand piracy in highland Guatemala. This is not to say that simply asking indirect questions rather than direct questions related to a stigmatized or illicit behavior is a surer method for building rapport and gaining access. On the contrary, asking a set of indirect questions related to piracy, especially questions that implied illegality, without addressing the law directly, could have heightened suspicion among the research subjects. Indeed, this was the case in my conversation with the manufacturer mentioned in the beginning of this section. I had attempted to use indirect questions to get at whether or not he saw his use of trademarked brand names as legal or legitimate. His response reflected the fact that these questions had come too soon in our relationship, the timing was wrong, and what he and others have at stake in the apparel business is valuable whether or not it was legitimate in the eyes of the state and other authorities.

Ethnographic research among piracy producers is essential for understanding the vernacular context of intellectual property rights and why policies that seek to root out informal activities and trademark infringement are not always, or even usually, successful (see Chapter 1). In this case, ongoing problems of political and juridical legitimacy in Guatemala make the law seem like a vehicle for the protection of outside and elite interests. At the same time, apparel manufacturers who participate in piracy are viewed as hard-working entrepreneurs, participants in a vibrant regional tradition of commercial enterprise, and people whose creativity, which often involves practices of

imitation and combination, is essential to their success. Participation in a valued form of work as well as problems related to economic and physical security are much more pressing concerns for people involved in the apparel market than are questions of legality. My research suggests that a policy approach that does not address issues of insecurity and uneven access to political, legal, and economic resources in a country like Guatemala will have little impact on piracy markets, apart from contributing to dangerous processes of criminalization and stigmatization.

Maya apparel manufacturers admit that their ability to succeed in the market depends on imitating popular styles and copying brand names. But questions that imply that “imitation” is an activity lacking creativity, reflecting negatively on the producer’s skill, put research subjects on the defensive or offend them. Research in this social context depends on an understanding that illegal activity is actually not a sensitive matter in the way that one might expect and also awareness that in the local view imitation is not seen as stealing. Beneath this cultural awareness is the ethnographic understanding that managerial skill and entrepreneurship in business are deeply at stake for apparel producers, definitive of moral worth in the local world.

Chapter One: Culture and Intellectual Property

The global spread of intellectual property rights (IPR) law in recent decades has brought a set of previously inconspicuous practices under the purview of judicial systems and international institutions. What are often mundane, everyday practices in many regions are now labeled “piracy” by governments, law enforcement officials, and rights-holding multinational corporations. This transformation lends a new moral, and potentially criminal, burden to livelihoods and forms of work that are of great importance in many communities. However, the threat that piracy producers pose to rights holders and more broadly, market systems, is not always clear (DeCastro et al. 2008). When young people in Nigeria trade in pirated compact discs of American pop music, do they substantially threaten the profits of giant recording companies?⁸ When Mexican manufacturers put a Levi’s label on a pair of jeans to sell in informal urban markets, what harm is inflicted on the fashion industry?

This chapter begins with an overview of the globalization of IPR law and then explores anthropological engagements with this legal framework to understand how ethnography has been useful for interrogating its basic premises. Building on this work, I argue that trademark law is as much as a moral regime as a legal precept and provide evidence from industry public relations and legal and business scholarship. I show how moral overtones in the trademark law literature come to dominate official and popular discourse about piracy in Guatemala. While a feeble criminal justice system limits the

⁸ See Larkin 2004.

state's ability to enforce international trademark protections, the process of moralization that has accompanied the implementation of IP law has social and political consequences that will be explored in greater depth through the course of the dissertation.

Global Intellectual Property

The globalization of IPR law reflects the interests of powerful corporate lobbies in the fashion, film, music, pharmaceutical, and software industries claiming that the worldwide explosion in piracy and counterfeiting since the 1980s drastically impacts their profitability. Although piracy often helps more than hurts trademark owners, IPR now travels as a core feature of the international economic development agenda, as a formal, legal apparatus presumed to create the conditions for unleashing entrepreneurial potential in developing countries, a program akin to Peruvian economist Hernando de Soto's (1989) neoliberal plan to grant formal land titles to Latin America's urban poor in order to incite capitalist enterprise and rectify structural inequalities in both its basic premises and, thus far, practical failings (Gilbert 2002). Economists, legal scholars, and business scholars claim that IPR encourages innovation by making new ideas profitable, and that innovation drives economic growth (Grossman and Helpman 1991); firms are unlikely to invest time and resources in building a brand or developing technology if these are not protected. "Competition is anticipated, even imagined" within the IPR framework, writes Marilyn Strathern (2002: 254). Meanwhile, neoliberal economists and allied international institutions strategically compel competition

through the promulgation of a *homo economicus* ideology and legal and economic frameworks that enforce and expand particular political-economic relationships and modes of behavior.⁹

Applied to a global scale, IPR protections are said to generate a legal and economic framework for innovation and growth in the developing world, while protecting the property of innovators and owners in industrialized nations. Studies indeed show that licensing and property protections correlate with foreign direct investment, international trade, and technological growth (Gould and Gruben 1996, Ryan 1999). At the same time, scholars critical of IPR argue that any correlation between intellectual property law and increased investment in or trade with developing countries must be weighed against the fact that once IPR law has been fully globalized, it becomes a “less important factor” in determining a nation’s relative investment appeal (Correa 2000:23-24). In other words, adoption or adherence to IPR law is often now a condition of international trade agreements, so the correlation between strict laws and foreign investment may simply reflect the outcome of such negotiations.

The World Trade Organization’s (WTO) Uruguay Round of the General Agreement on Tariffs and Trade in 1994 resulted in a “monumental change” in the global governance of intellectual property (Ricketson 1995: 881), the “beginning of the global property epoch” (Braithwaite and Drahos 2000: 63). The TRIPS Agreement, negotiated in the Uruguay Round, built on earlier treaties, namely the Paris Convention

⁹ Rosemary Coombe writes, “Intellectual property regimes were inevitably one of the first means suggested to promote the protection and use of traditional environmental knowledge, and through it, biological diversity. Conservation, it was suggested, was not being implemented in developing countries because of the lack of any incentive structure for preserving rather than destroying biological resources. Means had to be found to value them before measures could be found to protect them” (2003: 300).

for the Protection of Industrial Property, originally signed in 1883, and the Berne Convention for the Protection of Literary and Artistic Works, first accepted in 1886, which established international unions to facilitate mutual recognition of patent and copyright protections, respectively, for rights-holders from all signatory countries. The TRIPS Agreement largely integrates these early treaties with obligations established in the Rome and Washington conventions covering copyrights related to audio performances and recordings and patents for integrated circuits, respectively, while supplementing these conventions with additional protection standards and enforcement requirements. What clearly distinguishes earlier conventions and the TRIPS Agreement, however, is the fusing together of trade issues with IPR protections (Correa 2001: 79-80). Each of the nearly 130 nations that were WTO members at the time of the Uruguay Round was required to implement the TRIPS Agreement along varying timelines depending on development status (Guatemala, as a “developing country” had until January 1, 2000). After implementation, violations may be reviewed under a dispute resolution system that allows for significant trade sanctions against countries not abiding by or enforcing IPR protections.

Under pressure from corporate lobbies, the US had pushed hard for the inclusion of IPR protections in the Uruguay Round. Indeed, the TRIPS Agreement’s basic approach to linking trade and property rights had first been tested in US trade policy in the 1980s when intellectual property lawyers, the film industry (concerned at the time with media piracy primarily in the Caribbean basin), and pharmaceutical companies looking to manufacture drugs abroad cheaply and without the threat of their formulas being

“stolen,” had organized lobbying efforts. Their representatives had convinced members of Congress and US delegates to the World Bank and International Monetary Fund that intellectual property was a key indicator of a country’s economic viability and that a country’s enforcement record should be taken into account in making trade policy and lending decisions (Braithwaite and Drahos 2000: 66). By 1994, the US had negotiated a number of bilateral agreements linking trade and IPR protections and had successfully coerced states including India, Thailand, and South Korea – states that had previously promoted alternative property rights approaches based on ideas such as “common heritage” (Sell 1995: 318) – to adopt or enforce Western IPR laws by threatening trade sanctions. By the time of the Uruguay Round, international opposition to the US model of private property rights enforced via trade mechanisms had largely been squelched through such bilateral negotiations (Braithwaite and Drahos 2000: 63). A set of protections that are “suitable for industrialized countries, or, more precisely, for certain industrial sectors in which firms based in such countries dominate” has now been universalized (Correa 2000: 5).

The Anthropology of IPR

As IPR has expanded to new world regions, anthropologists have questioned their ethics and universal applicability. In general, anthropological engagements with IPR have taken one of three interrelated and often overlapping forms: 1) critique of the concept of property embedded in IPR law based on comparative case studies; 2) analysis of the expanding role of biopower in modern societies through the application of IPR

law in the life sciences; and 3) discussion of the challenges and potential benefits of international IPR law for indigenous populations seeking to advance rights claims and secure protections for “cultural property.” Here, I briefly outline these conversations and consider what each has to offer the emerging anthropology of piracy, to which this dissertation contributes. I draw heavily in this section on ethnographies of Melanesia, primarily because those islands have been especially fruitful terrain for conversations about culture, property, and personhood since the earliest days of the discipline.

Property Debates

Anthropology has a long history of the comparative analysis of property regimes across cultural settings. Whereas property is generally defined in terms of exclusive, individual ownership in the Western tradition, anthropologists call attention to collective and communal property arrangements and other ways of relating to the natural world and cultural products (Hann 1998). Anthropologists have also illustrated how, even in Western contexts, property is about more than ownership over discrete objects. As Maurice Bloch (1975) and others have argued, property relations are social relations. Indeed, property relations are inevitably bound up with cultural concepts of personhood as well as beliefs about the relationships among subjects, objects, and actions. “Every theory of property is necessarily a theory of the person,” notes Simon Harrison (1992: 238).

Stuart Kirsch (2004) offers an exemplary case related to the patenting of genetic material, a relatively new domain of IPR law that has drawn attention from a number of

anthropologists.¹⁰ Kirsch analyzes a debate between a non-governmental organization (NGO) fighting attempts to “patent human life” and scientists from the US National Institutes of Health who had been granted a patent for a cell line extracted from a member of a “lost tribe” (as the Papua New Guinea media referred to the Hagahai of the Schrader Mountains). Both parties, argues Kirsch, relied on understandings of the body and ownership that reinforced Western views, “including the supposition that genomes contain information which can be treated as property” (2004: 23). Meanwhile, many societies in Papua New Guinea conceptualize the body not in terms of individual sovereignty or ownership, but through lenses of kinship and social reproduction.

[They] recognize specific male and female contributions to procreation, commonly identifies as bones and blood. These contributions create entitlements that are realized in the form of limited claims on one’s offspring and what they produce. ... The resulting claims to persons and their productive capacities are largely incommensurable with Euro-American assumptions about the ‘possessive individual’ derived from Lockean conceptions of labor and property. (Kirsch 2004: 25)

While international debates over genetic material are generally divided into two perspectives – that such material belongs either to a particular person or to the genetic commons – neither of these approaches “accommodates Melanesian treatment of the body in terms of investments from parents, contributions to bridewealth [that make reproduction socially possible], and other transactions” (Kirsch 2004: 25). Not only is

¹⁰ See, for example, Høyer 2002; Cleveland and Murray 1997; Rabinow 2008; and Stone 2002.

genetic material considered as apart from and independent of procreative processes under IPR law, but procreation itself is discounted completely as a form of creative work. The anthropologist James Leach notes that, from a Western vantage point, procreation and the process of human development is treated as a kind of “becoming” rather than an act of creation directed by the will or works of intentional beings. “As creativity is separated from the process of becoming,” he writes, “it is valued and validated as a contingent extra to the mechanistic (that is undirected) recombination of elements ... Thus the correct conditions for recognizing personhood among Euro-Americans – control over the object world by the thinking subject – are fulfilled” (2004: 161-162). Understandings of ownership, investment, and entitlement based on the recognition of reproduction as a form of work are incommensurate with globalized IPR regimes. This case highlights one aspect of the cultural bias of globalized intellectual property regimes. It is of particular relevance for my analysis of the work done by garment manufacturers in highland Guatemala, since kin relationships, and especially ideals of reciprocity grounded in understandings of filial obligation, have been integral to the growth of the trade and to the development of norms regarding proper and improper modes of copying and imitation (see Chapter 3).

Disjunctures between Western property models and native concepts lead Marilyn Strathern to argue against the very use of the term “property” to describe relations of ownership and responsibility among certain ethnic groups of New Guinea. Although Hagan men, for example, commonly say that they “own” wealth objects and even women, it would be a fallacy to apply the term “property,” in the sense of an

alienable commodity, in such contexts. Among the Hagan people, writes Strathern, “things cannot be opposed to persons, as our own [Western] subject-object matrix postulates,” (1984: 165).¹¹ Conversely, Simon Harrison argues that the anthropological analysis of cross-cultural property regimes has been limited by a too narrow view of what constitutes property. Anthropologists have been caught up in the idea that property relations have to do with the expression of social relations through “things,” he suggests, leading them to overlook diverse approaches to intellectual property among the societies they study. Intellectual property exists only on the “plane of intersubjectivity,” writes Harrison, “It is the ownership, not of things, but of classes of things, of their images or typifications” (1992: 235). Questioning Strathern’s position, he contends that the notion that people, their ideas, and their attributes cannot be transacted as property “without doing violence to their integrity,” assumes that the “canonical model for property transactions is commodity exchange” (240). Meanwhile, gift economies, as Mauss (1990) noted long ago, are premised precisely upon the transaction of social identities. Citing arguments made by Malinowski (1922) and Robert Lowie (1921) for the importance of “incorporeal property” to the groups they studied and surveyed, Harrison argues that transactions of ritual action and belief, experienced as parts of the self and traded according to principles of the gift economy, are indeed governed by an intellectual property regime in diverse cultural settings. “The ownership by individuals or groups of exclusive rights to dances, songs, legends, personal names,

¹¹ It is interesting to note that, in subsequent work, Strathern (1999) contends that the Melanesian world view is more appropriate for thinking about property and ownership in general given the undermining of Western notions of bodily integrity by life science research and biological patenting (see Hann 2007).

magic, modes of body decoration and special roles in ritual” provides evidence, writes Harrison, of elaborate copyright and patent systems among many indigenous peoples (1992: 233).

I find this argument compelling insofar as it encourages the recognition of alternative intellectual property regimes while also acknowledging a degree of incommensurability between Western IPR law, firmly rooted in the principles of commodity exchange, and alternative approaches based on gift-giving, reciprocity, and a shared social as well as economic space of interaction. Harrison’s argument, in the end, does not so much disprove Strathern’s point about the misuse of the term “property” as open up new spaces for exploring the disjunctures between Western modes of ownership and other possible arrangements. In Guatemala, the trademarked brand names bought and sold in highland markets cannot be said to exist apart from or be opposed to the persons who appropriate them. They accrue their meaning and value from various social fields such that trading in brand names is also trading in the kinds of roles and identities about which Harrison writes. Yet, even for all their mobility and “dematerialization” (Manning 2010), fashion brands are important in Tecpán’s apparel trade precisely because they are integral to particular styles and not necessarily because of the kind of abstract representational value with which IPR law seeks to endow them (see Chapter 4).

Biopower

Kirsch's work (cited above) on genetic materials is one contribution to the larger work being done in anthropology on intellectual property and the life sciences. This research has been essential for understanding how new technologies for engaging with the natural world are also compelling novel ideas about biology, materiality, and information and novel approaches to the government of human health and the environment. As Cori Hayden notes, the rise of "biodiversity" as a natural resource, a field of corporate investment and scientific investigation, and an object of property rights protections represents a continued extension of "the market" into both "nature" and the developing world (2003: 62). Following neoliberal logics, nature is being reframed as a "storehouse of valuable genetic resources and as a resource to be managed as an explicitly economic enterprise" (Hayden 2003: 49). Discourses and practices surrounding biodiversity, genetic research, and other biotechnology and life science fields shape not only the objects of their investigation and ownerships claims, but also their subjects. Intellectual property agreements assume, for example, that indigenous people have an "interest" in biodiversity or genetic material as a natural resource. The goal of these agreements, in fact, "is to turn often-conflicting parties – developing nations, indigenous or local communities, the pharmaceutical and agrochemical industries – into mutually dependent 'investors,' by actively producing one piece of shared ground: that each has something tangible to gain from the sustainable management of biodiversity" (Hayden 2003: 61). Hayden argues that such

arrangements therefore presume and produce self-interested, maximizing actors who will, so the logic goes, act rationally given material interests and market conditions.

Intellectual property frameworks are productive of rational subjects at the same time as they rationalize modes of government and economic enterprise that increasingly depend on their application and enforcement. Kaushik Sunder Rajan (2006) explains how capitalism is more and more organized around the exploitation of life – the fields of medicine and medical research, biotechnology, pharmaceuticals, genetic testing, the list goes on, are at the forefront of capitalist investment and the geographic expansion of market systems. This transformation, in turn, opens onto new definitions of life itself, “as that whose futures we can calculate in terms of probabilities of certain disease events happening,” for instance (Sunder Rajan 2006: 14). Paul Rabinow and Nikolas Rose (2006) interpret this kind of epistemological shift as part of the ongoing elaboration in modern society of what Michel Foucault (1978) termed “biopower,” briefly define as follows: “a form of truth discourse about living beings and an array of authorities considered competent to speak that truth; strategies for intervention ... in the name of life and health; and modes of subjectification, in which individuals can be brought to work on themselves ... in the name of individual or collective life or health” (Rabinow and Rose 2006: 203-204). While enabling a new “political economy of hope” (Rose and Novas 2005) convergent with Sunder Rajan’s new definition of life, the patenting of genetic materials and new areas of biological research that such intellectual property applications open up also permits a ratcheting-down of the problems of health and illness to microbiological processes and components in ways that reconfigure

knowledge, expertise, health practice, and individual subjectivities (Rabinow and Rose 2006: 214-215).

The life sciences are an obvious domain for exploring the relationship between biopower and intellectual property. But concerns about health, life, and productivity are embedded in general discussions of IPR as well. “The rigorous specification of private property rights is nowadays almost everywhere thought to be a necessary condition not only for improved economic performance but also for healthy societies founded on civil and political liberties,” notes Hann (1998: 1). The moral health and welfare of a population as well as its capacities for creativity and economic production is as much an object of IPR discourse and practice as is its biological well-being, a point that is evident in the moral discourses, described below, that accompany the spread of trademark law to the developing world.

Indigenous Rights

Anthropologists have recently examined IPR in relation to the appropriation of traditional knowledge and commodification of indigenous culture by corporate interests. Such studies have looked at the patenting of crop varieties and other biogenetic resources,¹² the circulation of native art forms and designs, and the translation of herbal medicines into pharmaceutical drugs.¹³ This research points to the fact that traditional knowledge and other cultural and natural resources controlled by

¹² See, for example, Brush 1993; Cleveland and Murray 1997; and Hayden 2003.

¹³ See, for example, Greaves 1994; Posey and Dutfield 1996; and Brown 1998.

indigenous groups often receive little or no protection under global legal regimes, while multinational corporations reap enormous profits from these materials and knowledge systems.

As a remedy to this situation of legal and economic inequality, some anthropologists and native activists argue for a set of property rights and recognitions uniquely tailored to indigenous groups, based on the right to development and self-determination recognized in the International Labor Organization's Convention 169 on Indigenous and Tribal Peoples and other international accords (see Benthall 1999). Although critical of the ideologies of individualism inherent in IPR regimes, anthropologist and legal scholar Rosemary Coombe (1998) notes that IPR law could be a powerful tool for indigenous peoples struggling against exploitative market forces. On the other hand, "communities that cultural rights proposals are designed to protect generally lack the knowledge, political resources and economic networks required to take advantage of the opportunities seemingly afforded to them. Development at the local level is contingent on the reform of the political and economic conditions responsible for inequality" (Kirsch 2004: 33). Today, demands for "cultural rights" and "traditional knowledge" protections, initially made by academics and activists, then by indigenous peoples themselves, have become important rallying cries, "axes of mobilization" in the larger sphere of indigenous organizing (Hayden 2003: 38).

These rights and protections have been extended through various national legislative acts (in Ecuador, Brazil, and India, for example) and through United Nations provisions as far back as 1982 (Correa 2000: 220), most notably the UN Convention on

Biological Diversity. The WTO continues to debate the issue. The 2001 Doha Declaration urged member states to consider new protections for “traditional knowledge and folklore” alongside a review of current approaches to the patenting of biological materials. Ongoing discussions in the TRIPS Council and the office of the WTO director-general have focused on several proposals, including a requirement for the disclosure of the source of genetic resources and traditional knowledge in patent applications, a kind of “informed consent” process between indigenous peoples and corporations seeking to appropriate their knowledge and resources, and a searchable, online database of traditional knowledge (WTO 2006).

Some anthropologists contend that granting indigenous groups new rights and protections based in the IP framework – patents for cultivated seed varieties or a perpetual copyright for an indigenous art form¹⁴, for example – only serves to expand the reach of Western modes of governance with little regard for indigenous concepts of property, personhood, or ownership and in ways that may actually further disadvantage indigenous peoples in relation to multinational capital and bureaucratic states. Creative projects that stretch back through time and across entire communities – folklore, performances, oral histories, what legal scholar Susan Scafidi (2005) calls “cultural products” – do not easily fit into existing IPR frameworks, while indigenous peoples and other groups who would lay claim to such cultural forms must define themselves in essentialist terms so as to present a unified front – a kind of juridical individual – before the law. Even the development of *sui generis* property systems built around native

¹⁴ The WIPO Performances and Phonograms Treaty provides a measure of protection for performances of traditional music (see WTO 2006).

concepts and practices and local needs, something that both the WTO and WIPO are considering, depends on the translation of local cultural norms into a set of legal rights that can be harmonized with other systems, leaving anthropological questions of incommensurability by the wayside (Kirsch 2004; Povinelli 2001). As Marilyn Strathern and Eric Hirsch write with regard to such proposals for protecting “cultural property”:

“Rather than ‘cultural’ separating out one kind of property from another, the connotations refer to making ‘property’ out of whatever appears to be culturally important” (2004: 1).

Further, the WTO’s proposal to guarantee the “fair and equitable” (WTO 2008) treatment of indigenous populations through an informed consent model opens onto serious concerns raised in medical anthropology scholarship about the variability of capacities for consent across diverse and differently-positioned populations. Adriana Petryna’s (2002) work offers a fitting example. Her analysis of how Ukrainian citizens were led into experimental processes that were clearly beyond their consent in the aftermath of the Chernobyl nuclear disaster illustrates how contextual factors, including structural disparities and citizen relationships to the state and other institutions, make the granting of consent much more than a simple cost-benefit calculus on the part of potential research subjects (or, in the case of IPR, potential business partners). Her subsequent work on pharmaceutical clinical trials in low-income countries demonstrates how the fact of informed consent and its status as a formal and bureaucratically-legible mode of reckoning leads researchers to collapse procedural formality and ethical practice in sometimes dangerous ways (Petryna 2009). These same concerns would

apply to bilateral contracts between corporations and indigenous groups or individuals, with the informed consent procedure potentially covering over continued inequalities and all kinds of unsettled questions regarding the nature of consent as well as the nature of property.

Another concern is that the implementation of special IPR frameworks for traditional knowledge inevitably requires that indigenous peoples be subjected to extensive judicial procedures and national debates aimed at defining indigeneity, tradition, and ownership (Brown 1998). This has been true in the case of land rights struggles, where questions about what it means to be indigenous, who qualifies, and how citizenship and its privileges apply (or do not apply) across populations have been central to legal proceedings.¹⁵ Elizabeth Povinelli's work on Aboriginal land claims in Northern Australia makes clear how questions of identity and epistemology become deeply entwined in courtroom debates: "The land claim process teeters on the ability of the court to maintain control over the grounds of knowing what is what. The court must frame who you are, how you obtained this identity, and what knowledge and practice is a necessary or sufficient corollary to it ... In other words, what were the conditions by which your knowledge was produced?" (1993: 248).

The coupling of discussions about traditional knowledge with negotiations over the management of biodiversity at the UN and WTO already reflects stereotypical assumptions about who indigenous people are and what they do (i.e., agriculturalists, guardians of nature) and their relationship to the world and to technology (i.e., they are

¹⁵ See, for example, Povinelli 2002; Li 2007; and French 2009.

sources of raw materials that may be converted to modern technologies, but they are not themselves part of the modern techno-scientific world). Meanwhile, the fact that indigenous populations often sit at the bottom of the socioeconomic order within the nation-states where they reside, participate in transnational movements of goods and ideas, and increasingly live in cities (Morgan and Gulson 2010), where their indigenous status often gives way to a more general classification as part of the urban poor, means that they are more and more confronted with IPR not as benefactors of special protections but as participants in the informal economy, and often times, producers and consumers of pirated and counterfeit goods.

Piracy

Each of these dimensions of the anthropological engagement with IPR is helpful for approaching the study of IPR violations – that is, the study of piracy. Anthropologists demonstrate that diverse cultural understandings of authenticity, originality, and ownership also guide consumption habits and complicate the implementation of IPR frameworks.¹⁶ Elizabeth Vann (2006) finds that among Vietnamese consumers the categories “real” and “fake” have more to do with a product’s utility than with the formal relationship between products, brand names, and corporations spelled out in trademark law. Yi-Chieh Jessica Lin (2009) argues that counterfeit production in China is rooted in the long-standing cultural practice of *Shanzhai*, or imitation, which is commonly valued as a “grassroots” mode of innovation, self-expression, and even rebellion against mainstream values and corporate hegemony. Ethnography is useful for

¹⁶ See, for example, Halstead 2002; Luvaas 2010; Nakassis 2010; and Lin 2011.

understanding the failures of implementation efforts and the limitations inherent in globalized property regimes.

In this dissertation, I attempt to push this literature in several key directions. I seek to understand not only how brand pirates understand the differences between “real” and “fake,” but to also situate this understanding within the broader property regimes at work in the local setting. What model of property do piracy producers draw upon in their social relations with family members and neighbors? How are relationships between people and things, but also among objects, reflective of local concepts of place and personhood (Kondo 1990; Herzfeld 2004)? How does the problematization of piracy in the media and official discourse change how people understand intellectual property and their relationships to (distant and nearby) others? What forms of life and modes of living are managed and fomented in producer communities through the globalization of IPR? Who gets recognized as a “creator” or “producer” according to the current IPR framework and how does this play out in local settings?

I am also interested in both the political and moral economies of IPR law and the broader relationship among capitalism, law, and society. Rosemary Coombe and Andrew Herman offer a starting point for addressing these concerns in their discussion of the dual meanings embedded in “property.” The term derives from the Latin *proprius*, meaning both “that which one owns and ... a standard of behavior or correct conduct that is ‘proper’” (2004: 562-564; see also Herman 1999). This second meaning is strongly linked to determinations of ownership and citizenship within the ethos of capitalism. That is, in modern, capitalist societies, rights, privileges, and entitlements are

intimately bound up with moral evaluations of persons and populations (Foucault 1991). Intellectual property law institutionalizes a dialectical movement between one's right to ownership (an ostensibly universal capacity formally recognized in specific cases) and one's status as a rightful owner (a legal but also moral determination based on cultural norms and social structures). As Coombe and Herman phrase it, "the capacity to appropriate is contingent on being appropriate" (2004: 561). One aim of my work here is to understand what it means to be appropriate within producer communities and examine how that might differ from conceptions of "proper" behavior and "property" rights at the global level. The next section opens up a discussion about how such concepts have figured into the globalization of trademark law, the area of IPR law that concerns the brand pirates in highland Guatemala with whom I carried out my research.

Trademarks and Global Trade

The TRIPS Agreement significantly expanded international trademark protections. Trademarks – defined as any visually-perceptible signs that distinguish the good or service of one entity from that of another entity – can be words such as a company name or the name of a particular product or service, graphics or images, tag lines, and may also include the color combinations and font styles pertaining to a company's name, logo, or graphic scheme. Whereas the Paris Convention had required that a trademark be in use in a given country in order to merit protection there, the TRIPS Agreement protects marks that are not in use but are nonetheless publically recognizable in a WTO member state because of marketing and promotion. These are

known as “well-known marks.” For example, even if the Gap retail chain does not operate in Guatemala, the Gap brand name and logo merit protection in Guatemala because Guatemalans have been made aware of the company and its brand through the company’s multinational marketing campaigns and promotional tie-ins to popular media vehicles. Another key extension of trademark protections under the TRIPS Agreement has to do with the association between marks and particular goods or services. An entity can now be prosecuted for trademark violation (and the state held accountable for infringements) if it uses a mark that resembles that of another company even if the companies market completely different categories of products. The Paris Convention had limited protection to marks based on the goods or services in respect to which the mark had been registered. Now, a beverage marketed in Guatemala under the brand name “Nike” violates the Nike Corporation’s rights, even though Nike is not in the business of selling beverages (at the time of this writing).

Corporations invest heavily in the development and promotion of brands. The term “brand” encompasses a company’s trademarked signs but also the public image associated with those signs. Trademark proponents argue that the law must protect investments in corporate branding to ensure an orderly marketplace, where rational actors can make informed decisions about their purchases. This argument assumes that brands are seals of ownership and authenticity and that brands function as a social contract, relaying information about the origin of a commodity to consumers (Coombe 1996: 205). “The core of trademark law ... [is] the ‘information transmission model’,” explains legal scholar Robert Bone. “This model views trademarks as devices for

communicating information to the market” (Bone 2006: 549). Such an idealized relationship between logos, producers, and consumers is challenged, however, by the same processes of globalization that make fashion brands appealing to new populations (Balkin et al. 2004). As legal scholar Frank Schechter pointed out nearly a century ago, prefiguring the crisis of authenticity that Walter Benjamin (1968) would later describe, “Four hundred years ago a trademark indicated either the origin or ownership of the goods to which it was affixed. To what extent does the trademark of today really function as either? Owing to the ramifications of modern trade [...] the source of origin of the goods bearing a well known trademark is seldom known to the consumer” (Schechter 1927: 814). Nonetheless, the IPR model globalized through the TRIPS Agreement has been touted as a mechanism for protecting consumers from marketplace confusion (Besen and Raskind 1991; Cornish 2004).

The scholarship on trademark law also carries moral overtones. Piracy is commonly depicted as deviant behavior because pirates are said to steal from corporations and trick consumers. Robert Bone continues, “[T]he goal of trademark law [is] preventing others from using similar marks to deceive or confuse consumers” (Bone 2006:549). Trademark law is regarded in the legal scholarship as a way to protect “the people” from “actions of deceit” (Schechter 1925). Business scholars add that people must be protected from trademark infringement because fakes are a danger to society. Pharmaceuticals and airplane parts are frequently-cited examples of goods that could cause serious harm to consumers if trademark laws guaranteeing their origin, and, by extension, their quality, content, and reliability, are not enforced (Jennings 1989; USCC

2007). Business scholars move quickly from Gucci bags to jet engines and heart medications in such analyses, a strategic means for promoting the broad-scale application of IPR law even for industries – such as fashion and luxury goods – that might not clearly merit strict protections. Not everyone sympathizes with major fashion labels losing a small portion of their profits to the knock-off trade. Stressing the dangers of piracy also encourages readers to understand counterfeiting as a kind of public health problem, even a human rights issue, with pirates positioned as agents of “human suffering”: “[T]he sale of pirated goods cannot be exclusively measured in terms of their economic consequences for genuine article manufacturers,” write management professor Gael McDonald and marketing professional Christopher Roberts. “In addition, the losses, measured in terms of human suffering, that have occurred as a direct consequence of the consumption of pirated goods also need to be considered” (1994: 57). The authors note that a number of deaths have been attributed to the consumption of fake Chinese wine and that death and illness related to counterfeit pharmaceuticals is a growing international concern.

Piracy is also linked in some scholarship to organized crime, even terrorism (Nasheri 2005: 83). Portrayals of pirates as dangerous criminals are only amplified in corporate public relations and trade association campaigns against trademark infringement. The website of the International Anti-Counterfeiting Coalition, a US non-profit organization formed in the late 1970s by the film, fashion, and pharmaceutical industries, among others, and whose membership includes IPR law firms and investigators, features a page titled, “About Counterfeiting: Get Real.” The page reads:

The real truth is people who purchase counterfeit merchandise risk funding nefarious activities, contributing to unemployment, creating budget deficits and compromising the future of this country in the global economy. The real truth is counterfeiters are hardened criminals, exploiting consumers, businesses both large and small, inventors and artists and children laboring in sweatshops in Third World countries. You should know the truth about counterfeiting. (IACC 2011)

These statements play on feelings of nationalism and seek to incite a sense of moral outrage among consumers who presumably believe that criminal behavior, child labor, and exploitative working conditions are no longer problems for legitimate, rights-bearing corporations. The website asks consumers to combat counterfeiting through their purchasing decisions, to take individual responsibility for putting a stop to piracy. What is lost amid the hyperbole is the “real truth” of who pirates are, why they deal in fake goods, and how IPR law affects people in “Third World” countries like Guatemala.

Given the empirical failures of IPR enforcement efforts, business and legal scholars commonly blame “culture” for piracy’s continued proliferation. For example, marketing professors Robert Green and Tasman Smith write:

Many of the countries where counterfeiting flourishes are highly collectivist in nature, as opposed to the more individualist West. [C]ollectivist societies place less value on the role of any individual person or company’s contribution and place a premium on the benefits to society. [There is] a significant relationship

between a country's level of individualism and the extent to which intellectual property rights are protected. (2002:92-93)

As exemplified in this quote, culture is used to stereotype various world regions as a means of advancing neoliberal market objectives and legitimizing uneven development (Ferguson 2006; Cooper and Stoler 1997). IPR scholarship frequently draws on reductionist portraits of "national cultures" (Husted 2000) that are "fixed, simple, and unambiguous" (Herzfeld 1992: 73) to construct a map of the world and a hierarchical ranking of supposedly "discontinuous spaces" (Gupta and Ferguson 1997: 33). Green and Smith's dualistic view of the world, with its "given, reified categories, opposites paired in a structure of domination and subordination," (Chakrabarty 2000: 27), begins with an inherent bias against developing regions and an assumption that all humans are, or ought to be, self-maximizing calculators (Zaloom 2006).

The notion that private property rights are not a universal principle could provide a starting point for critical discussions within the legal and business literatures about the globalization of IPR frameworks (Hann 1998). As noted above, to the extent that "culture" and "traditional knowledge" have become keywords in development discourse, the WTO has instituted negotiations regarding alternative, *sui generis* property rights systems that purport to take communal forms of ownership and local relationships to knowledge and natural resources into account. When it comes to populations that participate in piracy and counterfeiting, however, cultural difference more often serves as evidence of moral shortcomings, as if "collectivist" and other approaches to property were indicative of a faulty ethics. Business professors Alexander

Nill and Clifford Shultz explain the benefits of educational campaigns against piracy and counterfeiting as follows: “People are made aware of the ethical issues involved; awareness is a prerequisite for ethical reasoning” (1996: 39). It is presumed that people who participate in piracy, characterized as deviant, aberrant, and criminal in the business literature (Albers-Miller 1999), can be reoriented toward a new culture and ethics if the law is clearly explained to them. To this end, the World Intellectual Property Organization (WIPO), the United Nations agency responsible for managing international intellectual property registration systems and promoting IPR adherence, leads “enforcement-related training and awareness-raising activities” targeted each year to countries with weak IPR regimes. In 2004, agency representatives spent two days in Guatemala City leading workshops for Guatemalan judges, federal prosecutors, and law professionals on the fundamentals of IPR law and its application. Cultural difference in places like Guatemala is deemed acceptable only if it can be managed as part of the expansion of an overarching set of Western understandings of property and rights (Mohanty 1988). Anyone who reads the law, it is assumed, will come to an identical conclusion about the problem of piracy, ethical behavior seems possible only in the context of formal legal governance, and respect for the law ought to be independent of socioeconomic status and other conditions of life or citizenship. As US Vice President Joe Biden stated in 2010 when announcing the release of the US Joint Strategic Plan on Intellectual Property Enforcement: “Piracy is theft. Clean and simple. It’s smash and grab. It ain’t no different than smashing a window at Tiffany’s” (Sandoval 2010, quoted in Karaganis 2011: 66).

But, in many places, the law is anything but clean and simple. Political scientist Rachel Sieder, writing of “the historical legacy of citizen mistrust of the law” in Guatemala, describes the postwar state judiciary as “bereft of legitimacy in the eyes of the majority of the population. Most Guatemalans rightly [tend] to see the law as something that operates to the benefit of powerful individuals and groups” (2003: 141). Given the lack of accountability related to wartime atrocities – the country’s internal armed conflict and state-led genocidal campaigns against the indigenous majority in the early 1980s left 200,000 people dead and over a million displaced (CEH 1999), and the peace process, concluded in 1996, granted amnesty to the perpetrators – the promotion of anti-piracy laws and the penal logics ensconced therein reflect a rather foreign concept, that crime is crime. Given rampant criminal impunity – Guatemala ranks fourth in per capita homicides globally (UNODC 2010), and less than two percent of homicides result in a conviction (Wilson 2009) – the idea that modern state sovereignty is defined by the punishment of crime seems misguided. A culturally peculiar criminology, premised on the notion that punitive law prevents crime and improves civic life and governmental and economic efficiencies (Pasquino 1991), shapes the ideological context in which arguments in favor of the expansion of IPR protections are often couched in terms of the spread of democracy, progress, and prosperity to nations that are seen as politically and culturally backward (Lippert 1999; Bettig 1996).¹⁷

¹⁷ Rosemary Coombe (1993) and Keith Aoki (1998) note a synergy between such narratives and the discourses of “civilization” and “conversion” that underwrote colonialism.

The Sincerest Form of Flattery

Although such moral refrains are commonplace in the law and business literatures on trademark piracy, there is some debate in those fields regarding the actual benefits of strict trademark protections. A number of scholars have recently suggested that piracy helps more than it hurts multinational corporations with strong brands, reporting that some economic benefit accrues to the authorized owners of trademarked brands when those brands are pirated. Marketing researchers find that the circulation of brand names within a given market contributes to “bandwagon effects” and “herding effects” (DeCastro et al. 2008) whether or not those goods are authorized. The more visible a brand name, the higher its symbolic value, and the more popular it becomes. Scholars thus describe a “virtuous circle in which sales of originals drive up sales of pirated products and vice versa” (DeCastro et al. 2008: 76; Balkin et al. 2004). The circulation of pirated goods may also allow authorized firms to charge more for their goods, a “snob premium” paid by elite consumers to distinguish themselves from people who buy obvious fakes (Barnett 2005: 1384). The anthropologist Simon Harrison, noting that some companies maintain archives of counterfeits and imitations of their products, explains that pirates pay the brands that they copy “a perverse form of homage.” Pirates, he suggests, participate in an “invisible partnership” with trademark owners, trading symbolic capital and esteem back and forth. Similar to the way in which a Polynesian chief’s sacred power is measured in the number of taboos surrounding him, Harrison continues, “The quantity of imitation which a corporation attracts is an

index – perhaps in some ways more reliable than its share price – of the prestige and commercial value of its trademarks” (2002: 217).

Fashion companies recognize that the proliferation of a brand name increases its prestige. In fact, instead of tightening the grip on brand appropriation, limiting use, and intensifying exclusivity, the trend in fashion over the past several decades has been to expand product lines to reach out to new consumer segments, especially middle-class and bargain shoppers, and even licensing or franchising brand names to other corporations to boost awareness and increase market reach. Giorgio Armani, for example, has a high-fashion, couture collection; a premium ready-to-wear line marketed under the Giorgio Armani label; “bridge lines” marketed via the Armani Collezioni and Emporio Armani brands; and a “better clothing” line sold in shopping malls under the Armani Exchange label (Raustiala and Sprigman 2006: 1694). These are authorized Armani goods, but that in no way means that a single source is responsible for their production or marketing. Top fashion designer Vera Wang now markets a full line of couture fashion and bridal wear sold in Vera Wang boutiques in major US cities, but also bedding sold at Bloomingdale’s, eyewear sold by Kenmark Optical, perfume available at shopping malls, wedding stationary sold through William Arthur, wedding bouquets marketed by FTD, luggage sold by Hartmann, a mattress collection manufactured and marketed by Serta, shoes sold at a host of retail outlets, and a discount clothing line sold at Kohl’s stores.

Attributes like quality, style, and price vary dramatically across such disparate portfolios. Although a consumer might understand that she is not buying haute

couture, “she might have some expectation of an exclusivity that may not be there if the designer produces in high street volumes ... Now the counterfeiter is the fashion house itself and the potentially damaged party is the buyer of the good” (Hilton et al. 2004: 351). The likelihood of confusion is compounded when fashion firms enter the market for seconds, factory rejects, and overruns, as is the case with companies ranging from Nike to Ralph Lauren. “Such a marketing strategy gives credence to poorer quality counterfeits as they can claim to be ‘legitimate’ factory rejects” (Hilton et al. 2004: 351), not to mention the crossover between counterfeits and pirated copies, legitimate factory overruns, and “grey market” items – the “real” factory overruns that circulate illegally, that is, through unauthorized channels (Phau et al. 2001). All of this points to fashion companies participating in precisely the kinds of “brand dilution” that they litigate against in trademark infringement cases (Magid et al. 2006).

The difference between genuine goods and knock-offs is often not so much a direct relationship between a trademark owner and the point of origin of an item, the level of quality suggested by a trademark and the quality of the product, or even who precisely is manufacturing the item. In Guatemala, for example, Maya people who labor in small-scale workshops where pirated goods are made might be former employees of the export factories where name-brand clothing is manufactured outside Guatemala City. The difference between “real” and “fake” is found, rather, in how ownership and authority is meted out under the law.

Guatemala's "Pirate Culture"

Regardless of burgeoning debates over the harms caused by trademark piracy, the economic and moral arguments against trademark infringement and the kind of hyperbole used to justify strict protections outlined above shape debates in international arenas and also pervade local settings where they are sometimes embraced and sometimes contested by those with something at stake in their application. In the Guatemalan media, *piratas* [pirates] who hawk unauthorized reproductions of copyright- and trademark-protected materials are portrayed as participants in an underground market that threatens the ostensibly more legitimate business interests of multinational corporations, the integrity of Guatemala's economy, and the state's modernist aspirations. Pirates are said to be antithetical to Guatemala's legitimate participation in the international community, as defined according to an official globalized view of economic development and progress (Portes and Schauffler 2004). Carlos Menocal (2005), a former journalist who served as one of President Álvaro Colom's top security advisors before stepping into the role of Minister of the Interior in 2010, writes in the *Prensa Libre*, one of Guatemala's major dailies: "They don't need to decipher maps or plunder ships to find the treasure that makes them millionaires. We are talking about the modern pirates ... who cost the Guatemalan state millions in lost taxes." It is easy to blame pirates for a host of problems: to theorize the failures of government or, to take the long view, the world system, in terms of the problem of

piracy. Meanwhile, the landed postcolonial elite and multinational corporations do all they can to avoid paying taxes.¹⁸

The criminalization of piracy converges in everyday conversation and media reports with ideologies of ethnicity, culture, and class in ways that make already marginalized populations available for new kinds of blame. Official, media, and popular explanations for rising levels of violence and insecurity in Guatemala often blame youthful delinquents, gangs, and organized crime, a discursive process that conflates structural problems having to do with neoliberal reforms and democratic shortcomings with the cultural problems of unsavory social figures (Benson et al. 2008). The social and spatial proximity of street vendors hawking pirated goods in Guatemala City to street crime (e.g., pick-pocketing, mugging and assault) leads to piracy being lumped into a generalized portrait of violence as an intractable part of urban life. The fact that street vendors generally belong to an urban underclass and are often indigenous (Offit 2011) also fits with stereotyped portraits of delinquency that blame poor, rural people who many non-indigenous *Ladinos* say are “corrupted,” that is, drawn into a life of crime, when they move to the capital city (Camus 2011). This stereotype and ubiquitous “talk of crime” (Caldeira 2001) in Guatemala partially emerge out of brutal realities, especially the rising levels of violence that have thus far characterized the postwar period. And there is at least one noteworthy connection between organized crime, corruption, and piracy in Guatemala. Roberto López Villatoro, the ex-son-in-law of former military dictator Efraín Ríos-Montt (who carried out scorched earth campaigns in the Western

¹⁸ Guatemala has one of the lowest tax rates in the hemisphere, with special concessions made to foreign investors in export production since the 1990s (Gupta 2007).

highlands in 1982 and 1983, the worst years of *la violencia*) is known in Guatemala as *El Rey del Tenis* (The Sneaker King). The shoe manufacturers Fila and Vans released public statements in 2000 claiming that one of his businesses served as a front for the importation and distribution of pirated athletic shoes. In recent years, López Villatoro has been at the center of corruption scandals involving the manipulation of federal judicial appointments and congressional votes and the channeling of state funds to his businesses through national anti-poverty programs. The United Nations Special Commission against Impunity in Guatemala (CICIG) produced evidence in 2009 demonstrating that López Villatoro had purchased favors from Supreme Court and lower court appointees and congressional representatives and carried out behind-the-scenes financial negotiations with the current president's sister-in-law (Valenzuela 2009).

The US government promotes the idea that pirates are part of a criminal underground in Guatemala. A recent Associated Press story picked up by the Guatemalan media reported that the US Immigration and Customs Enforcement agency has determined that drug cartels operating in Mexico and Central America are financing their operations from the sale of pirated goods (Prensa Libre 2011a). This is a powerful line of argument in Guatemala, where Los Zetas (a Mexican cartel that has integrated dozens of Guatemalan ex-military personnel, especially special operations forces, into its ranks) are blamed for much of the violence in the capital city and El Petén, the remote northern department through which drugs are trafficked on their way to Mexico and the US (see Painter 2008; Johnson 2011).

Yet, sensational media accounts that conflate piracy with organized crime and violence belie the fact that crime is not a homogenous category and discourage sophisticated analysis of the factors that underpin political corruption as well as the physical insecurity that many Guatemalans currently face (Benson et al. 2008). Pirates do not always or even usually belong to the families of former dictators or to drug gangs, and piracy is a widely-accepted practice on the local level, indeed a staple of Guatemala's marketplace. As much as 80 percent of software run by Guatemalan companies is pirated, despite dozens of court cases in which private businesses have been fined (Marroquín 2010). Pirated goods are sold openly in urban streets and highland market towns and, in large towns throughout Guatemala, retail shops feature pirated fashion brands. Contrary to representations of the piracy and counterfeit trade in legal and business scholarship, industry public relations, and the Guatemalan media, most knock-offs are not dangerous, nor are they intended to confuse or mislead consumers. In interviews with highland residents, I found that they know that the Lacoste shirts they buy in open-air markets are not the same products that wealthy Guatemalans purchase in urban malls or on shopping trips to Miami. That is the point. People buy knock-offs in Guatemala because they do not have the purchasing power to buy expensive originals. At the same time, the term "original" does not necessarily imply to Maya clothing producers or consumers the same kind of authenticity that fashion companies claim for their trademarked goods (see Chapter 4).

The association of piracy with corruption and violence and its characterization as a social and economic threat have circulated steadily in the national media since

Guatemala's implementation of the TRIPS Agreement in 2000, with a sharp spike in media coverage of IPR issues surrounding Guatemala's entrance into the Central America Free Trade Agreement (CAFTA) in 2006. In the aftermath of TRIPS, the US continued to push for even tougher IPR regulations and enforcement procedures through a series of bilateral and multilateral free trade agreements. Besides reducing tariffs and eliminating quotas for US exports to the region, CAFTA tightens patent restrictions for pharmaceutical drugs, a move that is in direct violation of the Doha Declaration on TRIPS and Public Health approved by WTO member states in 2001 and a subsequent WTO decision in 2003 to allow the importation of generic drugs to countries with limited domestic manufacturing capacity (Fink 2005). CAFTA also extends copyright protections an additional 20 years (TRIPS set the limit at the author's life plus 50 years) and requires tougher IPR enforcement protocols, such as the policing of not only imported goods, but also exports and transiting goods. Further, whereas TRIPS limited the imposition of fines to the monetary damage suffered by rights holders, CAFTA requires the imposition of fines irrespective of actual damages in the case of copyright or trademark piracy. Finally, the TRIPS Agreement did not include any specific obligations with regard to the allocation of state resources for IPR enforcement. CAFTA, on the other hand, spells out that "resource constraints cannot be invoked as an excuse for not complying with the agreements' specific enforcement obligations" (Fink and Reichenmiller 2005: 296). In a country like Guatemala, where law enforcement resources are severely limited and already strained by efforts to combat violent crime and drug trafficking, this kind of provision has potentially serious consequences for

domestic policy decisions and public safety. Despite popular demonstrations against CAFTA across Central America in 2005 and 2006, concerns among US Representatives regarding its net impact on both the US economy and Central American states, and push-back by Guatemala's then-President Oscar Berger regarding the limitations on generic drug importation, production, and sales built into the agreement, the Bush administration was successful in pushing the agreement through at home and in each of the five Central American states and the Dominican Republic.

The Guatemalan state has demonstrated its commitment to IPR enforcement through various efforts, including the appointment of a special prosecutor for IPR in June 2001 (IIPA 2011) and a number of sporadic, well-reported crackdowns on piracy, in which police confiscate illegal compact discs, DVDs, and name-brand clothing sold in Guatemala City streets (Mauricio Martínez 2004; Larios 2011). The many street vendors I interviewed assured me that the underpaid police simply turn the corner from Sixth Avenue to Eighteenth Street and fence the stuff for their own gain.¹⁹ The government recently removed the majority of these vendors (and the clients who depend on their cheap goods) from the city sidewalks, part of a larger public-private partnership to convert the heart of Zone 1, the capital city's historic center, into an upscale entertainment district. This is an urban renewal project similar to the Business Improvement Districts (BIDs) developed in North American cities since the 1990s. The new *La Sexta* (as Sixth Avenue is called) features a cultural center, retail shopping, chic cafés, and, perhaps most importantly for the middle- and upper-class clientele the BID is

¹⁹ On police corruption in Guatemala, see Little 2008, 2009; Camus 2011; and Sanford and Walsh-Hanley 2010.

meant to attract, clean streets and uncluttered sidewalks. Despite a series of protests staged by the street vendors and hard-fought negotiations with city authorities, this public space, once a thriving home to the urban informal economy, has been remade for the more privatized, formal enjoyment of the city's elite (Véliz 2006; Véliz and O'Neill 2011). It is now common to hear university students and urban professionals say they are going "*sexteando*," an evening spent strolling La Sexta, hopping among its new, fashionable bars. The informal street vendors have been relocated to an interior space in a multistory building on La Sexta, a move that makes product piracy a less conspicuous feature of the capital city's urban landscape. The move ironically pushes pirates out of the open air and into the shadows, the kinds of "clandestine" spaces with which the Guatemalan media and international industry associations like to associate piracy (Mauricio Martínez 2004).

The US continues to put pressure on the Guatemalan government to reign in piracy and counterfeiting. Guatemala has been on the US Trade Representative's "Watch List" for IPR infringements since 2001 (IIPA 2011). The office's latest report urges the Guatemalan government to "extend its efforts to pursue raids and prosecutions, not just against small-scale sellers, but also against manufacturers of pirated and counterfeit goods" (USTR 2010). In April 2011, eight people were detained in two separate raids on capital-area homes where millions of blank compact discs and dozens of computers, CD and DVD burners were confiscated (Prensa Libre 2011b). US trade associations such as the Business Software Alliance (BSA) regularly comment in the media on economic losses associated with the piracy trade (Marroquín 2010) and

have also participated in public roundtables in Guatemala City to discuss the “nature, causes, and consequences of piracy, and viable alternatives” (Prensa Libre 2011c, my translation).

A representative of El Zeppelin, a large domestic clothing manufacturer based in Xela, estimated in 2011 that between forty and sixty percent of apparel sold in Guatemala is pirated, and was quoted in a national newspaper saying: “[Piracy] is bad, slows down economic growth, doesn’t pay taxes, robs market niches from the national textile industry and impedes its development. It sells at lower prices, but without the backing of a company and no quality, and the client can’t complain” (Prensa Libre 2011c, my translation). He adds: “... *lo barato sale caro*,” cheap stuff is expensive, a colloquial phrase meaning that one ends up paying more in the long run when buying inexpensive, low-quality goods that do not last. This company representative nicely sums up the attitude toward piracy that many formal business owners have adopted in the wake of so much attention to IPR protections over the past decade.

Coombe and Herman (2004) suggest that the association between property and “proper” conduct has gained greater moral strength as well as legal force as neoliberal reforms in many parts of the world have emphasized state judiciary functions over other mechanisms for regulating market relations and market behavior. In Guatemala, a weak judiciary means that proper market behavior has been spelled out in the law, but has been more effectively promoted through moralizing discourses that circulate in the media, official commentaries, and in formal institutions such as the country’s universities and business associations (see Chapter 4). Perhaps the most serious threat

to piracy producers and the most troubling aspect of IPR legislation in Guatemala is the way that moral discourses about piracy feed into right-wing political campaigns that promote a return to militarization and state-sponsored violence as a response to drug trafficking, crime, and delinquency (Thomas et al. 2011), a trend to which I return in Chapter 5. Indigenous people in highland Guatemala who appropriate globally-popular brand names are caught on the wrong side of international legal frameworks and trade pacts that globalize a narrow understanding of property rights used by corporations in conjunction with nation-states to determine who can properly own, create, and produce fashion and its signifying marks. They are also on the wrong side of a moralizing discourse in a country where the criminalization and moral indictment of indigenous people and the poor serve dangerous political ends.

This does not mean, however, that the people labeled “pirates” in media reports see themselves as bad actors. The small-scale manufacturers and market vendors I got to know who are involved in piracy may be wary of increasing legal pressures, even concerned that crackdowns may hurt their businesses. In their individual dealings, however, most of them have not been affected by new state measures to address the “problem” of piracy. They do not even consider themselves “pirates.” They do not necessarily see themselves as engaging in criminal behavior or breaking the law. Nor do they view their activity as something that undermines the health of the economy. As discussed in subsequent chapters, a simple criminology of piracy overlooks the “profound moral – even righteous” (Bourgois 1996: 41) ethical codes that so often underlie criminalized behavior.

Chapter Two: Maya Workshops in the World System

Rigoberto Cumez, a Kaqchikel Maya man in his late 40s, owns a garment workshop and screen-printing operation in Tecpán. He employs four young men at sewing machines and two others at a silk-screening press, an awkward contraption with four wooden arms reaching into the air, each suspending a screen smeared with red, blue, yellow, or black ink. Rigoberto travels each day to sell the finished t-shirts, printed with “*marcas, equipos, lo de moda*” (brands, sports teams, whatever is in style), as he puts it, in market towns around the highlands and wholesale districts in Zones 3 and 4 of Guatemala City. The tees display Puma and Converse logos, Nike swooshes, sports team logos (especially Guatemalan, Mexican, and Spanish soccer clubs), and images of Mexican *luchadores* and WWF wrestlers. The workshop is tucked away in his cinder-block home on a dusty road leading out of town. Typical of house design in Tecpán, the front door, made of a simple wooden frame and sheets of metal, leads to a central courtyard with a *pila* (a concrete wash basin), clothes lines, and a few potted geraniums, edged by a cinder-block kitchen, two bedrooms, a sitting room, and the large work room that houses the *fábrica*. If you ask Rigoberto to recount how the house got to be the way it is – how it got built, the materials, the layout, the additions, and the renovation for the business – you will learn that this materiality not only symbolizes the emergent kind of middle-class living that I describe throughout this dissertation but also the social history of an industry. In the last five decades, in this “out of the way place” (Tsing

1993), a cottage industry grew, driven by the work of Tecpanecos and those coming from outlying hamlets, who have faced significant forms of structural violence. Due in large measure to its cool climate, Tecpán has become nationally known for the sweaters it produces. The local shorthand term for any garment workshop owner is *suetero* (sweater maker), and in the early stages of my fieldwork I was sometimes surprised to hear a manufacturer refer to himself or to a neighboring producer as a *suetero*, knowing that the person made children's knitwear, the other major commodity, instead. Indeed, the range of products now manufactured and sold includes not only sweaters and children's knitwear, but also t-shirts, sweatshirts, ball caps, jeans, pants, socks, jackets, school uniforms, and even sportswear such as cycling and soccer jerseys.

As Guatemala's relationship to the wider world changed profoundly in the Cold War-period, this cottage industry also changed along the way, and it is interesting to look at big themes in Guatemalan society – themes such as gender and indigeneity, social and state power, and the problems of economic development – from the standpoint of a subaltern industry that is linked up to the world economy and global culture in dynamic ways. In this chapter, I draw on oral histories of the growth of the trade, my work experience in the fábricas, and field observations to explore some of these themes and sketch out the connections, regional and global, that structure the local industry. Rigoberto downloads Internet images of fashion logos, professional wrestlers from the US, and soccer club insignias to make into stencils for the screen-printing press. One of his preferences is Diesel, an Italian fashion company, and yet the logo and tagline that the workers are screen-printing onto t-shirts during one of my

visits isn't quite right. The shirts read, "Diesel: For Successful Uving." Two letters – L and I – inadvertently merge in the last word to produce a confused copy, but it's a mistake that few highland consumers are likely to catch. Even as mistranslations like this seem to disclose significant geographical, linguistic, and cultural distance between Tecpán's cottage industry and global centers of fashion production, it is more accurate to say that local producers occupy a culturally and economically ambivalent location within a world system in which they are nonetheless deeply enmeshed.

Rigoberto buys fabric for manufacturing from distributors in Guatemala City and a town in the Western highlands, San Francisco El Alto, which hosts a vibrant wholesale garment market each week and has, along with Tecpán, one of the most active apparel manufacturing industries in the country. Rolls of cotton, acrylic, and polyester textiles flow into these markets from Mexico. Sometimes they are bought cheaply as imperfect stock or overages from maquiladoras in the region. Another reason Rigoberto makes a weekly trip to San Francisco El Alto – climbing higher in altitude in his microbus early in the morning, then back down as trading at the market begins to slow, usually around lunchtime – is to take advantage of the wholesale trade. Closer to the Mexican border with Guatemala and the astonishing movement of goods that goes on there (Galemba 2010), San Francisco El Alto is a place where buyers are purchasing in bulk, especially in the dry season from October to April, when the rain has stopped and the weather greases the wheels of commerce in arid highland streets that undulate as wildly as those of another San Francisco.

Back at the workshop in Tecpán, Rigoberto's teenage daughter has the role of manager, and the handful of young men she supervises assemble as many as 1,200 garments per week. Sometimes the wholesalers want more, sometimes this is too much, an element of uncertainty that is part of how the *sueteros* are at the mercy of wider market forces, and also part of why they make regular trips and maintain a local knowledge of how and what is selling. That Rigoberto's daughter is in charge of the workshop employees is rare in Tecpán's trade, given the patrilineal composition of the apparel business. Women are sometimes employed in hand-work, finishing, or packaging, work that is said to be "*más suave*," "*samäj b'uyul*" in Kaqchikel, both terms denoting that it is softer work, more delicate, a euphemism connoting gender ideology and social norms. Rigoberto describes Elena as "a son and daughter combined into one," an obedient and kind-hearted girl who works hard and brings up good ideas related to the business. For example, she draws on conversations with her young female friends who work in the *maquiladoras* outside Guatemala City for design tips and "inside" information on fashion trends. At the same time as women's participation in globalized apparel production has largely been limited to underpaid employment in such sweatshops, Elena says she struggles to get "respect" from the young men she oversees in her father's fábrica. Local patterns of labor and power mean that young men migrate northward, own local businesses, or work in locally-owned and managed industries, and that they consume the material objects of cosmopolitanism and modernity. Elena, dressed in a printed tee and pirated-label blue jeans rather than the *huipil* and *corte* donned by her mother, represents changing dynamics of tradition and modernity in

Guatemala, but also contends with the difficult realities of gender discrimination evident in the international division of labor as in local patterns of labor, consumption, ownership, and authority.²⁰

When *sueteros* like Rigoberto talk about the economic circumstances of their trade, they often invoke an idiom, pervasive in Guatemala and, of course, around the world, following the collapse of US and some European credit markets and financial institutions, of “crisis.” “We are in crisis right now. We have really big economic problems,” Rigoberto tells me. By 2009, the full effects of the complex, global economic slowdown had reached rural Guatemala, where thousands of people depend on remittance payments from family members working in the US. Before the crisis, remittances from migrants amounted to ten percent of Guatemala’s gross national product (Cheikhrouhou et al. 2006). As business fell off, Rigoberto released his full-time employees and stopped production aside from occasionally filling screen-printing orders for other local workshops. Elena headed north: against the wishes of her family, in violation of gender conventions, but also perhaps because of them, and against the tide of migrants returning to Guatemala from *El Norte*. (The term for the United States in Kaqchikel means simply upward or north, so they say, “*Xb’e pa jotöl*, “She went north.”) She paid a coyote with her earnings from the workshop and additional family loans, eventually landing work on the night shift at a cookie factory in New Jersey, where there is already a network of Tecpanecos.

²⁰ As touched on in the Introduction and discussed further in Chapter 4, women “bear the burden” (Smith 1995) of displaying the symbols of identity and tradition in Guatemala. See also Nelson 1999 and Warren 1998.

This chapter examines Tecpán's apparel trade in the context of diverse global connections. I am interested here in what June Nash calls the "ethnographic aspects of the world capitalist system" (Nash 1981). Highland manufacturers and the wider communities of which they are a part are implicated in regional networks of commerce and trade, and in a global economy structured by trade and legal agreements that privilege the interests of foreign capital over domestic manufacturers. Maya communities are deeply impacted by big market forces, which contribute to the conditions of volatility and insecurity that have become existential and social facts in this part of the world. In later chapters, I discuss how brand piracy figures into this picture of the scalar and social dimensions of economic and structural change. Piracy, I will argue, is induced by economic and legal globalization at the same time as it is criminalized and disparaged via the mechanisms of international law. For the moment, however, my focus is on detailing the growth of the local trade and the dynamics of a regional marketing system that "offers an important vantage point from which to examine the interaction of global and transnational trends with domestic conditions" (Bestor 2004: 34), including changing dynamics of gender, ethnicity, and work in highland Guatemala.

The Wages of Development

Despite Guatemala's role as a "peripheral" state since the colonial period and the national economy's orientation first toward export agricultural production and, since the 1980s, export industrial production, the rural peasantry has long been involved

in small-scale commerce (Smith 1984; McCreery 1994). Rural people from the Western highlands supplied essential goods such as food and clothing to workers on coffee, then cotton, plantations in response to market demand as well as the loss of their own traditional sources of livelihood, as communal land holdings were broken up by liberal regimes in the early and latter parts of the nineteenth century. As Carol Smith's work (1978) demonstrates, rural marketing centers such as San Francisco El Alto gained enormous importance throughout the twentieth century, as manufacturing trades including traditional clothing production and tailoring became important sources of livelihood for indigenous Guatemalans. The growth of highland commercial sectors in clothing, textiles, agricultural commodities, and crafts such as pottery and basketry was also limited, however, by the plantation system, a national project built on the forced labor of indigenous peasants. Subsistence farming remained the norm in most indigenous communities given the subsistence-level wages paid in seasonal plantation work and the fact that Maya people had no access to credit sources, capital, or political power. Highland markets have historically been populated by small-scale traders, with commodity producers working out of their homes, the "penny capitalists" of Sol Tax's (1953) ethnography of one highland town, Panajachel, in early cold war Guatemala.

Although Tecpanecos did not move into commercial enterprise in significant numbers until the middle of the twentieth century, this transformation was precipitated by waves of integration linking Tecpán both politically and economically to the wider region. "From the earliest days of Spanish contact," writes the anthropologist Edward Fischer, "Tecpán has been more closely integrated into the national economy" than

many other highland towns, making it an “important point of articulation between local producers and national markets” (2001: 217). In fact, Tecpán served as a political capital not once, but twice. Iximche’, the nearby archaeological park, marks the pre-Colombian capital of the Kaqchikel empire and the first colonial capital of Guatemala (at that time, the toponym for all Spanish territory between southern Mexico and Costa Rica). After independence in 1821 (and long after the administrative capital had relocated), and especially during the coffee boom of the late nineteenth century when anti-vagrancy laws compelled debt servitude (McCreery 1983), the town sent laborers to coastal plantations. The town also became a center of grain production and millwork, providing wheat for much of the country. Located less than ninety kilometers from Guatemala City, the town’s location ensured that as urban working classes expanded and displaced poor moved into the capital region in the twentieth century, Tecpán would be well-positioned as a production and intermediary marketing site between Western markets and the capital city.

Today, Tecpán has a diversified economy relative to other towns in the highland region insofar as commercial enterprise and wage labor comprise a large proportion of economic activity (Fischer 2001: 248). According to recent anthropological surveys, farming is the primary occupation of approximately fifty percent of male heads-of-households in Tecpán, followed by nearly a quarter who identify as self-employed, a category that includes “commodity producers, merchants, tradesmen, or *transportistas* [bus or taxi drivers].” Another fifteen percent are involved in nontraditional agricultural export production, and the remaining quarter of surveyed males work as wage laborers

(Fischer 2001: 217). These survey results contrast strikingly with the dependence of the rural Western highlands on migrant labor to the US and the continued dependence of many central highland residents on seasonal plantation work. As recently as the early 1990s, “almost all of the able-bodied men in the hamlet of Paquip, just outside Tecpán, migrated to coastal plantations. Now no one does” (Fischer and Benson 2005: 9). This shift is partly due to the rise of non-traditional export agriculture in and around Tecpán since the end of the armed conflict. Thousands of land owners and laborers are involved in the cultivation of export crops, including broccoli, snow peas, cauliflower, and cabbage, which are then marketed by regional cooperatives to US and European food companies. Export agriculture has economically benefited some Maya families looking to supplement subsistence *milpa* (corn and beans) farming with cash earnings while still permitting them control over the means of production (Fischer and Benson 2006), an important value among many Maya people (Fischer 2001; Watanabe 1992). Some Maya families have even purchased land from *Ladinos*, evidence of the transfer of some degree of wealth from the town’s non-indigenous population to its indigenous majority via international trade (Fischer 2001: 231). But export-led development is a risky venture that sometimes results in tremendous losses for vulnerable Guatemalans and increased levels of precariousness for Mayas in particular (Fischer and Benson 2006; O’Neill and Thomas 2011). This trend reflects a larger neoliberal program that, throughout Latin America, has involved the privatization of communal lands, the retraction of state functions, and the opening of agricultural markets to international trade. Guatemala’s domestic market for wheat all but collapsed in the mid-1990s when

WTO regulations required the elimination of tariffs on most agricultural commodities. Wheat and other grain crops, including corn (that historic staple of the Maya diet), are increasingly imported from the US. Under pressure from the World Bank and IMF, the Guatemalan state has reduced social service expenditures and lifted price controls on basic necessities. These changes have left many Guatemalans vulnerable to poverty and chronic underemployment, health insecurities, crime and violence (Chase-Dunn 2000; O'Neill and Thomas 2011).

Attracted by the low wages, low rates of unionization, and lax regulation in Guatemala, *maquiladoras* expanded rapidly during the transitional period between the nation's constitutional reforms of 1985 and the final peace accords signed in 1996 (Petersen 1992; Goldín 2001). Fueled mainly by US and South Korean capital, the number of factories nearly doubled between 1992 and 1996. By the mid-1990s, 130,000 Guatemalans were employed in almost 500 textile and garment factories, with ninety-nine percent of their products exported to the US (Traub-Werner and Cravey 2002). By 2005, Mexican and Central American *maquiladoras* supplied nearly twenty percent of all apparel sold in US stores (Abernathy et al. 2005). Many highland residents affected by structural adjustment policies migrate to the capital and semi-urban centers in search of factory employment (Goldín 2001) in spite of the notoriously poor working conditions and labor abuses common to *maquiladoras* (Ross 1997). These abuses, and the gendered patterns of employment that underwrite them, are well-documented in Guatemala, where between 70 and 80 percent of *maquila* workers are young girls and unmarried women (Goldín 2001). Multinational garment companies capitalize on the

vulnerability of female workers to maximize productivity while keeping labor costs low (Fuentes and Ehrenreich 1983). And, despite its rapid growth throughout the 1990s, factory employment is far from secure. By 2000, nearly 100 *maquiladoras* had closed and moved operations elsewhere (Goldín 2001). For these reasons, Tecpanecos have tried to avoid factory labor. “*Maquiladora* production is, like that of cut flowers, based on a model of outsourcing and contract production,” writes Fischer. “Employment in a *maquiladora* is viewed as an alternative of last resort, and even then only as a temporary necessity” (2001: 235). Maya women in Tecpán more often work in traditional weaving, as homemakers and child care providers, domestic servants, market vendors, tienda owners and operators, or in petty trades such as baking and tortilla-making than in *maquiladoras*.

Whereas the formal sector jobs created by neoliberal reforms involve heightened levels of risk, subordination, and disenfranchisement, formal sector employment (public and private) is also in decline. The vast majority of Guatemalans – about seventy percent (INE 2003) – eke out a living in informal economic activities and sectors. This participation cannot be explained away as a simple response to conditions of poverty or marginalization (Portes et al. 1989). Serial, institutionalized poverty linked to landlessness and a systemic lack of educational opportunities and other resources and rights, together with a largely ineffective and, from the perspective of many Mayas, highly suspicious state apparatus contribute to the rate of informal economic participation in Guatemala (CIEN 2006; Pérez Sáinz et al. 2004). In Tecpán, patterns of discrimination, structural inequalities, and even legal barriers, have long prevented

indigenous people from advancing their educations, owning formal businesses, and entering professional fields. Thus, although formal employment options may be more diverse than in other regions, they actually remain quite limited for indigenous men and women. One garment workshop owner estimated in an interview with me that about seventy-five percent of people living in Tecpán are Maya, but “ninety-nine point nine percent of the *textileros* (garment manufacturers) are Maya.” He continued, “The *Ladinos* have never worked in textiles. They work in other things,” he mentions education, medicine, and commercial enterprise. According to my surveys, the vast majority of professionals and even butchers and hardware store owners, animal feed distributors, gas station owners, and automobile salesmen in Tecpán are identified by others in town and/or self-identify as *Ladino*. There is a growing cohort of indigenous teachers, both male and female, in Tecpán’s primary and secondary schools, with women generally assigned to lower grade levels and men to upper ones. Several local factories that manufacture thread for artisanal weaving employ perhaps a hundred people, mostly indigenous men (Hendrickson 1995: 48; Fischer 2001: 218). But the apparel trade is a major source of employment in Tecpán, and, importantly, self-employment for Mayas who are minor capitalists and who are more and more involved in a language and cultural style of business that is about professionalization. Apparel factory ownership and operation have permitted some Tecpanecos to purchase property, educate their children, and invest in other business ventures. The trade has been an “economic revolution for Tecpán,” as one producer put it.

The Apparel Trade

Tecpán's apparel trade began when a handful of Kaqchikel Maya families living in rural hamlets outside of town invested in semi-industrial knitting and sewing machines sold by distributors in Guatemala City and Antigua, sometime in the 1950s. The introduction of this new technology opened up a market for manufactured knitwear on which early producers quickly capitalized. In a pattern common to petty capitalism throughout the developing world, workshop owners relied on kin-based resources, including using their homes for production and acquiring capital through informal loans from family members (Smart and Smart 2005: 3). The industry has expanded largely through apprenticeship and kinship connections, which is a topic that I delve into in the next chapter, where I am concerned with a more detailed consideration of the relationship among family, ideals of community, and work. People who are already established in the trade help the next generation get started, teaching them the necessary skills and providing initial capital.

Many of my conversations with older apparel producers amounted to an oral history of the trade as told by this aging generation, who look back on the early days with pride. Each tells his own version of precisely who the first *suetero* was, although there is a consensus that the first producers lived in Xepac and Xecoxol, two neighboring hamlets several kilometers from the town center. Why these men began making clothing and selling it, first to neighbors and then in the markets of the capital city and Western highlands, is often explained in terms of a comparison between the limitations

– economic and existential – of subsistence agriculture and the opportunities offered by commercial production and trade. As one aging *suetero* explained,

Look, in Tecpán, the sweaters began around 1950. That is to say, we have been working in *el tejido* for sixty years! First, it began with a few people, because before that what one lived on was farming and nothing more. One planted wheat and *milpa*, and that was it. But when a person really wanted to get things started, he bought a machine, and it worked for him, and, just like that, others saw it and did the same. It's like this. In commerce, there's a little more. Families can do a little better in commerce. In farming, not as much. There is not much for you in farming. It's just to sustain the family. You don't have an income. But with sweaters, well, in Tecpán, what has helped the town's development in Tecpán is the sweater. Later, there was agriculture, whole fields of lettuce and broccoli, but, first, there was the sweater.

This man emphasizes that clothing production provided the basis for later commercial growth in export agriculture, giving historical but also symbolic primacy to his trade in the history of Tecpán's "development," as he terms it.

He also uses the term *el tejido*, which means weaving, as a general referent for the kind of work that garment manufacturers do in Tecpán. Although weaving is closely associated with indigenous women in Guatemala, the same verb (*tejer* in Spanish, *kemoj* in Kaqchikel) is used for traditional weaving and for machine knitting. This linguistic convergence is symbolic of the material displacement of women from the work of clothing their families by industrial apparel production. Still, the possible slippage

between “women’s work” and “men’s work” evidenced in the double-meaning of *tejer* is carefully patrolled by men as they narrate the history of the cottage industry. Many of them begin their stories by talking about the historical roles of women in making clothing, going on to distinguish between the “domestic” work – that is, oriented toward the family – done by women who made clothes and the “industrial” work – that is, oriented toward the market – taken up later by men. According to some, women had even worked on “domestic” knitting and sewing machines, smaller in size and capacity, for some time before “industrial” production began. But, they emphasize, men were the ones who began to produce clothing in larger quantities and orient production toward commercial markets.²¹

The first garment workshops in Tecpán produced knit hats for infants, knit sets for children, and sweaters for men and women, selling mostly in Guatemala City to the urban poor and working classes or in regional marketplaces such as San Francisco El Alto, which served the Western highlands; Escuintla, which served the coastal plantations; or Esquipulas, located near the Honduras and El Salvador borders and thus an important commercial center for the Central American Common Market.²² Many of

²¹ In contrast to the displacement of women from clothing production in Tecpán, in San Pedro Sacatepéquez, a small town in the Western department of San Marcos, the introduction of new knitting and sewing technologies meant that women who had traditionally made clothing for their families transitioned to the business of making and selling sweaters for regional markets (Ehlers 2000: 136-142). Whereas the labor of women who work beside their husbands in the trade in Tecpán has been viewed generally by men as supplementary to their own management and sales work, women are recognized as the primary owners and decision-makers in San Pedro Sacatepéquez.

²² The Central American Common Market (CACM) was established in a 1960 treaty providing for reduced barriers to trade among Central American states and a common tariff on nearly all imports from non-member states. The measure led to a two-fold increase in trade among Guatemala, Honduras, El Salvador, Nicaragua, and Costa Rica by 1970, with more limited success in the following two decades, largely due to

the rural families who entered apparel production in the 1960s and 1970s soon moved to Tecpán's semi-urban center to facilitate access to inputs and markets, either selling their agricultural plots in the hamlets to finance the move, taking out loans from kin, or slowly saving up from apparel sales to purchase a bit of land or rent a house in town. This move proved disastrous for many *sueteros* when a massive earthquake hit central Guatemala in 1976, leveling nearly every building in Tecpán, but leaving many of the remote hamlets outside of town unscathed. It would take years to re-establish production capacities and rebuild distribution networks between Tecpán and its markets.

Those who survived the earthquake soon faced another danger. The country's internal armed conflict intensified in the highlands in the late 1970s, with the threat to the indigenous population peaking during General Efraín Ríos-Montt's scorched-earth campaign, carried out in 1982 and 1983. The United Nations-sponsored truth commission eventually characterized the atrocities of this period as an act of genocide against the Maya (CEH 1999). While whole villages were burned and their inhabitants massacred in some Western regions, the primary threat to Tecpanecos came in the form of focused kidnappings and killings. Common targets included indigenous professionals and community organizers (Fischer and Hendrickson 2003; Smith 1984). Business success in the apparel trade had allowed a growing number of Maya families to become involved in local government, regional cooperatives, and cultural associations. Many apparel producers were disappeared or fled to Chimaltenango, the department capital,

the armed conflicts that swept the region. The CACM's relevance and effectiveness has been diminished by WTO stipulations regarding international trade and the tariff and quote restrictions included in CAFTA.

or Guatemala City after receiving death threats to themselves or their families. Some of them returned to Tecpán in the mid-1980s, but others continued their work in the cities where they sought refuge. Thus, the origins of Chimaltenango's apparel trade can be traced back to Tecpán, as can several clothing manufacturers that continue to operate in Guatemala City.

Apparel production in Tecpán experienced a boom in the late 1980s as the conflict subsided, part of a larger context of Maya resurgence following decades of intense political and military repression (Warren 1998; Fischer and Brown 1996). Indeed, continued constraints on employment and educational options for indigenous people mean that hundreds of men in Tecpán opened up workshops throughout the 1990s. Fischer estimated in 2001 that there were “between seventy-five and one hundred small sweater factories that employ between one and twenty workers” (2001: 218). Based on my own counts and input from local producers, I estimate that there are now one hundred workshops in Tecpán's semi-urban core and as many as two hundred in the *colonias* on the outskirts of town and the hamlets that are part of the municipality.²³ A local yarn and thread distributor reported to me that he has around 400 clients, although this number included workshops throughout the department of Chimaltenango (there are a few dozen just in the department capital) and some in the nearby departments of El Quiché and Sololá whose owners travel to Tecpán to buy their inputs. Still, he estimated that about 80 percent of his clients are from Tecpán, putting

²³ This number is lower than the estimates I heard from informants during preliminary field research. People commonly claimed that there were around 500 workshops, which likely reflected the sense of intense local competition that producers commonly feel and also an air of pride in the size and importance of the trade.

the number above three hundred. Tecpán has become as important to the domestic apparel trade as more traditional centers of tailoring such as San Francisco El Alto and Guatemala City (Smith 1984; Goldín 2009). Nearly every family in Tecpán has a connection to the apparel trade in some respect, and entire families are sometimes employed in the workshops. The growth of apparel manufacturing has also led to the establishment of a slew of textile and thread suppliers around town as well as machinery importers and embroidery and screen-printing shops.

The majority of workshops are small-scale, like that of Oswaldo Cuxil, who lives in one of the *colonias* constructed over the past several decades to support the growing urban population. Oswaldo attended primary school off and on for a few years, but spent most of his childhood farming with his father. At age fourteen, he began cutting and packaging garments for a workshop owner, who later helped him start his own shop. Now nearly forty-years-old, Oswaldo's business occupies one room built onto his home. It sits hidden behind thin sheets of metal that stand in for a wall, hidden from the chilly mountain air, from authorities snooping around for pirated goods, and, especially, government tax collectors. A piece of poster board hung on the wall reads: "*Dios bendiga este negocio, mini-fábrica 'de Cuxil'* [God bless this business, 'Cuxil's' little factory]," penned in black marker, with Oswaldo's surname in quotation marks, indicating that the business takes its name from him.

Oswaldo employs three young men, one of them his nephew. Two are occupied at manual knitting machines, a ubiquitous model traded under the brand name Brother. Only slightly more sophisticated than the machines purchased by the first *sueteros* in

the 1960s, Brothers consist of a metal carriage housed in a rectangular plastic case, mounted on two legs so that the employees stand up to operate them. Grasping a pair of handles, they move from side to side, rhythmically swaying in perfect time to move the carriage back and forth over a row of industrial needles. The carriage bears the warp threads; the needles bear the weft, so that each pass completes a row of knitted material. Employers who rely on this type of loom look for operators with strength, endurance, and, in particular, the ability to maintain smooth movements and a steady pace, all crucial to producing a flawless length of sweater knit. The best operators are also agile learners with a quick hand, since the design of the sweater and the color combinations result from manual changes to the machine settings, ideally made without upsetting the rhythm of the carriage. I never encountered a woman operating a manual knitting machine in any of the workshops I visited, and employers insisted that women did not have the upper body strength the work necessitated. Nonetheless, these are the same kind of machines that women sometimes operate in San Pedro Sacatepéquez, and I worked for several weeks at one in another workshop in Tecpán, albeit trading off with a male employee in half-hour shifts for the sake of meeting production schedules.

The Brother knitting machine was an important catalyst in the rapid expansion of the apparel industry in the early 1990s. Cheap and relatively easy to operate –workshop owners and apprentices could learn design techniques and invent new styles simply through trial and error using the punch-card programming and manual controls – an individual working at one of these machines could produce up to eight sweaters per day, roughly four dozen sweaters per week. If the person charged fifty quetzales per

sweater at the market, with a profit of eight to ten quetzales per sweater, he could earn close to 500 quetzales (approximately US\$70) per week, much more than an agricultural worker who might earn 150 quetzales per week or a public school teacher whose starting salary would be around 250 quetzales per week, and about the same as a bus driver who might earn as much as 2500 quetzales each month. Machines often changed hands several times as people came and went in the business, and employers commonly passed an older unit onto a young apprentice, who might then work for four or five hours at home each night to supplement his daytime earnings.

Manufacturers who got their start before *la violencia*, as the worst years of the armed conflict are commonly termed, and had capital to invest once the conflict subsided, purchased slews of Brothers as business picked up after the war, some employing thirty or forty men to each operate one machine. In 1995, the Japanese company that manufactured Brothers developed a new line of computerized machines, and in 2003, the company stopped manufacturing knitting machines altogether. Parts for the manual models are now difficult to find. Besides, a new generation of machines came to Guatemala in the mid-1990s. As textile factories in the US and Europe closed down with the expansion of free trade and the globalization of manufacturing and moved operations to places like Guatemala, used machinery, including automatic, rectilinear models that cut down on production time and labor costs became available to Guatemalan importers, a case of “last generation technology” ending up in less developed regions (Fischer 2001: 236). Workshops that have not been able to amass the

capital to invest in these technologies are marked by the distinctive and steadily-paced noise of the Brothers, which carries out into the streets of town.

Oswaldo's employees occasionally shout to one another between the carriages' passes, making brief conversation, telling jokes, or passing along orders as they move sweater knit from the looms to the cutting table. Once the material is trimmed to size with heavy scissors following crude patterns cut from cardboard, it goes to one of the various other machines scattered about the wooden tables that line the walls.

Oswaldo's third employee mans these devices: a Juki sewing machine, an overlook machine used for finishing the garments' edges, and a Singer 20U used for zig-zag stitching and primitive embroidery work. As is common to most workshops in Tecpán, there is a radio on one of the tables, the music barely audible above the mechanical noise. There are a couple of dozen cassette tapes scattered around, all of them Christian music, a clear indication of Oswaldo's Protestant faith, since evangelical pastors encourage the combination of worship with work in ways that Tecpán's Catholic *padres* do not. There are still the usual workplace diversions reflective of the industry's male hegemony, however: posters of championship soccer teams tacked to the walls, a fold-out spread from a daily newspaper featuring a national beauty queen, and a cell phone advertisement starring light-skinned, long-legged, and scantily-clad models.

I worked in a small operation much like Oswaldo's for several months during my fieldwork. Owned by Alberto Ixim, the workshop consisted of two rooms on the second floor of Alberto's uncle's house. One room housed three manual knitting machines and the two workers who operated them (one worker moved between a machine

specifically used to produce shirt collars and another programmed to produce sweater knit). These workers taught me the basics of how to operate the manual equipment and allowed me to assist them for several weeks, with great amusement not only at the desire of a woman and a *gringa* to learn the work of a *tejedor* (knitting machine operator), but also at how quickly I seemed to forget the intricate gear and lever changes they had just showed me that were necessary for producing whatever pattern we were working on that day. The second room was used for cutting, assembly, and packaging. There, I ran an industrial sewing machine putting together children's clothing. I sat in a row of three seamsters, each of us looking up from our work only to see the back of another's head. The chair and desk on which the sewing machines were mounted were barely large enough to accommodate my tall frame. Guiding the sweater knit or fleece material through the machine with both hands, I sat hunched over and cramped into my personal workspace, keeping a careful eye on the seam rapidly emerging beneath my gaze. The regular employees in this room included two other *costureros* (seamsters), one of them a greasy-haired fifteen-year-old who had briefly worked at one other workshop before coming to this one, the other a twenty-eight-year-old who had worked at a number of clothing shops since age fourteen, now trying to support his wife and two children. There was a *cortador* (cutter) named José, whom everyone called Pájaro in Spanish or Tz'ikin in Kaqchikel, both meaning bird and, especially in Kaqchikel, carrying a coarse slang connotation.²⁴

²⁴ Code-switching between Spanish and Kaqchikel was common in all the workshops in which I either worked or spent time as an observer. The predominant language often depended on how much Kaqchikel the various employees spoke. In Alberto's workshop, for instance, one *costurero* spoke very little of the

José was known as a flirt and reveled in telling sexual jokes in the workshop and slinging cat calls out the second-story window – usually open because of the intense heat generated by the afternoon sunlight that poured in through the opaque plastic roof – at the young girls passing on the street below. The other employees encouraged his *machista* behavior with their laughter, although one of the *costureros* performed his Evangelical faith by cautioning José when he felt he had gone too far with the jokes and innuendo. José’s high energy, eagerness, and wit had garnered him a fictive kin relationship with Alberto and his family. The sincerity that had drawn Alberto to José was illustrated to me by the difficulties my introduction into the workplace environment posed for José. It was a full week before he felt comfortable enough to cajole passing school girls in my presence, and he struggled for much longer to determine what pronoun to use to address me in Spanish – at first using the very proper *usted* form, but with constant slippage into the less commonly-used but also less proper *tu* form. After two weeks, he finally settled on the *vos* form, which is used among peers, including co-workers, and family members in Guatemala.²⁵ José’s family lived in a rural hamlet several kilometers from Tecpán, and, in order to avoid the hour-long commute (a bus ride on dirt roads followed by a long walk through agricultural fields) to his family’s

indigenous language, so banter was often in Spanish. Kaqchikel terms were used for particular emphasis or to impart specific meanings that escaped translation into Spanish, as was the case with José’s nickname. Kaqchikel is an intimate language in Tecpán, by which I mean that it is often the language of the home as opposed to the workplace, and of close friends rather than strangers or mere acquaintances – and this has a great deal to do with the context of ethnic discrimination, which pushes Kaqchikel into the privacy of homes and close relationships, and also the fact that people cannot assume that other indigenous people speak the language since its use is on the wane in semi-urban towns like Tecpán. José and Alberto spoke to one another in Kaqchikel, a sign of their close friendship in spite of the employer-employee dynamic at its base.

²⁵ There was less confusion about how to address one another in Kaqchikel, since there is only one second-person singular pronoun: *rat*.

home during the workweek, he took his meals with Alberto's family (paying a few *quetzales* per week out of his wages for the food) and slept in the workroom on an old mattress that was propped up against the wall during the day. He had worked for Alberto for three years, and Alberto explained to me that he was actively grooming José in management and marketing with the aim of setting him up with his own business when he married. Our orders for the day often passed from Alberto to the rest of us through José.

Despite this young man's status with Alberto, the real manager in the workroom was another *costurero* who operated the overlook machine. With his work station strategically positioned to face the row of seamsters, Germán kept track of how quickly each of us worked, the spacing and quality of our stitching, and the work flow among the cutter, seamsters, and himself, often advising José when we were running low on material, notions, or assignments. Giovanni had only worked with Alberto for six months when I began at the shop, and his quiet reserve was not as appealing to Alberto as José's gregariousness, which meant that José carried a level of favor and expectations of reciprocity that Germán did not. Germán's father, who had worked construction jobs, passed away from alcoholism when his son was nine-years-old. The fourth of five surviving children, Germán began working in garment factories when he was 15, after finishing the eighth grade. A large portion of his wages goes to his mother, who sells orange juice on the street corner near their home, and his two unmarried sisters. When I asked Germán in an interview if he hoped to have his own workshop some day, he was pessimistic. "All the workshops I know are having a hard time, and I don't see how I

could do any better.” The old Brother loom that one of his former employers passed along to him is gathering dust, he says, because he is too tired at the end of the day to make anything either for himself or for the market.

Workshops like that of both Alberto and Oswaldo are not always hospitable work environments. Temperature control is often a problem, with workers suffering the chill of the morning air and the heat of the afternoon sun, both amplified by metal or plastic roofing and the dearth of windows in the cinder-block workshops. When one costurero in Alberto’s shop complained about the heat on a sunny day at the end of the rainy season, another replied simply, “*Somos trabajadores* (We’re workers),” implying that garment workers should expect such unpleasant conditions. Overlook and sewing machines produce a lot of lint, which fills the air and the lungs of workers, who frequently exhibit coughing, congestion, and other upper respiratory symptoms. In some workshops, employees wear masks to prevent irritation, but these are rarely supplied by employers and often discouraged by teenage co-workers who say that wearing a mask is a sign of frailty or weakness. Work days are long, usually from six o’clock in the morning until six in the evening with a short break at ten o’clock for the ubiquitous *refa* (see the Introduction) and a one-hour break for lunch. In Alberto’s shop, employee’s schedules were sometimes staggered so that some started at six, others at seven or eight, depending largely on the workload for the week. All of the employees with whom I spoke preferred to work as many hours per day as possible, however, since they were paid either by the hour or by the piece. At both of the workshops where I volunteered my time, employers allowed extended breaks on special occasions, as when

a national cycling competition chose Tecpán for the race's finish line. Workers and workshop owners joined everyone else in town out in the streets to wave the cyclists down the home stretch and enjoy the musical acts performing in the central plaza.

Debt and Dependency

Whereas Alberto rarely worked at the machines in his workshop, preferring to do accounting work or spend time on the road with clients, Oswaldo works at one of the knitting or sewing machines in his workshop several days per week to save on labor costs. Both of these workshop owners purchase yarn and other raw materials from the major distributors in town: San Fernando, Distexma, and Matex, the latter two establishments owned by brothers who moved to Tecpán from another commercial town, Chichicastenango, in the mid-1980s. Since that time, they have nearly monopolized the yarn, thread, and notion business. To sell his finished products, Oswaldo takes the bus to San Francisco El Alto every Wednesday and travels less frequently to La Terminal, a wholesale clothing and household goods market in Guatemala City. He complains about selling there; he has been robbed and assaulted outside La Terminal, which is widely reputed as one of the most dangerous places in the country because of thieves who steal merchandise and money from the merchants going in and out.

Oswaldo also complains about the credit system that structures the informal wholesale market for clothing in Guatemala. "The market works like this," he told me,

You go to San Francisco on Wednesday and maybe you take 5,000 *quetzales* in merchandise to deliver to your client. He says, 'Come back on Friday, and I will pay you for it.' So, you gave him 5,000 in credit for two days. But when you go back on Friday, he says he can only give you 2,000 out of what he owes you, because that's all he sold. But he promises you, 'I'll give you the rest next week if you bring me another order.' The next week, he only gives you 2,000 again, so then he owes you 6,000 already. Once he has built up a big debt, he will only ask you to bring a little merchandise each week, and over time, he will pay you, but it might take a year or more! You are left covering the difference until he can pay you the total amount, and this is the same with every *mayorista* (wholesaler). They are not used to letting go of the money in their pockets. And you can't keep working like that. After a while they order from someone else, when they have a big enough debt with you. Last year, a few of them stopped paying, so we had very little cash, and you can't keep going if you run out of cash.

What Oswaldo describes is the pyramid-like structure of the consignment system that underlies the wholesale garment market. Buyers in market towns like San Francisco El Alto, Antigua, Totonicapán, Salcajá, Xela, and Esquipulas purchase merchandise on credit from producers, then resell the garments at smaller quantities to *minoristas* (retailers and market vendors) who then sell to individual consumers. This chain breaks down, however, if consumers slow down their purchasing. If the merchandise doesn't sell, the manufacturer never gets paid. This is precisely what Rigoberto, who had to shut down his screen-printing and t-shirt assembly shop, claimed had happened as a result of

the global “crisis.” He had delivered large orders of merchandise to *mayoristas*, and when they did not sell, Rigoberto could not recoup his capital investment in those goods or find new cash sources to continue production.

Almost all the manufacturers I interviewed expressed similar frustrations. Many of them were owed several thousand quetzales for merchandise they had turned over to *mayoristas*, and some had little hope that they would ever see that money. This is one reason manufacturers constantly look for trends in the marketplace and regularly offer new styles. It is crucial to their businesses that their products sell quickly. Indeed, one former employee at Rigoberto’s workshop claimed that the screen-printing business’s failure had less to do with the global economy than with Rigoberto’s slow response to new trends in highland fashion. When the particular colors and brand names that he was producing were losing popularity to new styles, Rigoberto had not responded fast enough, the worker explained.

The consignment system leads to a significant degree of turnover in the apparel trade, as small purveyors run out of money and close down their shops, with new ones opening up to take their places. Often, workshop owners will close down just for a brief period – the agricultural harvest season, for instance, so they can work their fields and save the money that would have gone to a day laborer, or a few months during the apparel trade’s low season, during which they drive a taxi or a minibus to earn extra cash. When they have made enough to buy *materia prima*, pay the electricity bill and employee wages, they return to the workshop floor. Well-established manufacturers may sometimes take out bank loans to finance their participation in the consignment

market and keep production levels constant. For many, however, bank loans are not a realistic option since the banks charge interest, an expense that cannot be passed on to *mayoristas*.

Despite the anxieties and financial burdens associated with the consignment system, manufacturers often develop close ties with their regular clients. They sell to the same handful of buyers week after week, sometimes for several years. The markets are lively, even raucous places that producers look forward to visiting, and a business transaction with a *mayorista* often begins with small talk about the weather, a tax strike by truck drivers or *campesinos* on the Pan-American Highway, or sales trends.

Mayoristas may be looking over a new bundle of merchandise the producer is offering that day throughout this chit-chat, with the producer strategically keeping the conversation light and positive while slipping in short comments on the quality and stylishness of his products: "This shade of brown is really popular among the youth right now." "These t-shirts are selling very fast in Antigua." The *mayorista* may agree with the producer or push back: "That brown was selling good two weeks ago, but now, nobody wants it." It is also common for *mayoristas* to suggest design changes and even show a producer another style that is selling well and ask if he can copy it. In this way, market demand emerges as a complex set of interactions and inputs, determined not simply by consumers, but also by the *minoristas* and *mayoristas* who interpret market trends, relay information on consumer taste up the chain to producers, and sometimes dictate new fashion directions. When *mayoristas* ask producers to copy particular trends that they see taking off in the marketplace, they are also proliferating acts of imitation,

instigating price wars over who can make certain styles for the lowest price, and, therefore, sometimes also encouraging the kinds of social conflict that can accompany practices of copying (see Chapter 3). The small talk between *mayoristas* and producers ends when the buyer has had time to look over the offerings and is ready to discuss how much he or she wants and at what price. There is always haggling over the final price per dozen. Finally, the producer carefully records the quantity and price of the consigned goods in a hard cover notebook and shows the *mayorista* what he has written so that there is no question about it later on when the producer tries to collect the debt for those items.

Maya women exercise a great deal of control in highland municipal markets. The overwhelming majority of handicraft vendors in tourist towns such as Panajachel and Antigua are women, and women often oversee production cooperatives for traditional woven goods and other crafts (Little 2004: 147).²⁶ In the nontraditional apparel trade, both men and women work as *mayoristas*. It is not uncommon for a woman to own and operate a market stall, perhaps traveling to several different markets during the week, while her husband tends agricultural plots back home. Upon arrival in a market town, some male garment manufacturers will throw off their otherwise demure demeanor and flirt a bit with female buyers in the hopes of encouraging a bigger purchase.

Markets are set apart culturally from home and family and are commonly seen as places

²⁶ In his study of K'aqchikel Maya handicraft vendors, Walter Little notes, "Although more women than men trade in the marketplace, few have access to products and volumes that would net them better financial returns" (2004: 149). In the nontraditional garment trade, I found that women trade at all levels of quality and quantity in the informal municipal markets like that of San Francisco El Alto. Female teachers or school principals are often in charge of uniform orders as well. Formal distribution networks, including state and NGO contracts, retail orders, and the wholesale trade along La Bolívar are most often controlled by men.

where businessmen can let loose a bit. They frequently spend the entire day at the market, even though they need only an hour or so in the morning to offer their products to clients and a small amount of time in the afternoon to collect debts from these same buyers, in the hopes that the *mayoristas* have resold some of the merchandise to over the course of the day. The rest of the time is spent in idle talk with other producers, gambling at cards, playing soccer against other producers on a local field, or drinking in the cantinas.

Big Business

While small workshops like that of Oswaldo and Alberto depend exclusively on the informal market system, there are other options available to larger, more formalized operations. Indeed, the size and degree of formalization of a given workshop structures how the business interfaces with regional markets, global flows of materials, machinery, and competing merchandise, and the Guatemalan government. Some larger workshops are registered with the state tax and business administrations and regularly contribute to local and national coffers. For the vast majority of manufacturers, however, localized modes of reasoning about justice, rights, and ethical business practices hold sway, as discussed in subsequent chapters, but state law and regulation are not matters of great concern. The government seems distant to manufacturers, and when it does get close, it appears threatening, as when police patrols on the Pan-American Highway extort bribes from manufacturers carrying merchandise to market. Throughout the trade, labor practices are not generally in compliance with state guidelines having to do with work

hours, vacations, or employer contributions to social security. This kind of noncompliance, informality, and irregularity is common throughout Guatemala, saying more about the state of the state than about the intentions or dispositions of apparel producers, and is part of the context of piracy that will be discussed in subsequent chapters. Most workshops also rely to some extent on household labor, even if they employ a dozen or more non-household wage workers.

If Oswaldo and Alberto's workshops represent the small end of the production scale, the *fábrica* owned by Miguel Tecúm in which I worked for several months during my field research typifies big business in Tecpán. Miguel is well-educated by local standards. He grew up cutting fabric and packaging finished garments in his father's workshop, one of the first in town. After graduating from high school in Chimaltenango, he attended the public university in Guatemala City for two years before his father passed away in 1994. With his father's death, Miguel's hopes for earning an engineering degree were quickly dashed. As the eldest son, it was his responsibility to provide for his grieving mother and four younger siblings, so he returned home to continue his father's work making men's and women's sweaters. His father had already purchased one Italian-made rectilinear knitting machine before his death, and Miguel invested in more of these models to save on both time and labor. One rectilinear machine puts out twenty-four sweaters per day, and a single employee can monitor three of the automatic machines simultaneously. With each employee earning between 40 and 70 *quetzales* per day, that amounts to around 700 *quetzales* in labor savings alone per week. In 2009, Miguel had five rectilinear looms, a couple of Brothers still sitting in the

doorway with “*se vende* (for sale)” signs on them, two motorized cutting machines, an industrial steam press to smooth and stretch the sweater knit, three sewing machines, two overlooks, one machine for button holes, another for affixing buttons, and two *remalladoras*, large machines specially-designed for attaching sweater collars. He employed ten workers, including a couple of older men who had been hired by his father, and two young women, cordoned off from the men in a separate part of the home-workshop, occupied at the *remalladoras*. In a discourse reminiscent of how garment assembly work is feminized within the *maquiladora* industry (Cravey 1998), Miguel told me that the *remalladoras* required “delicacy” since each tiny loop in the sweater knit had to be matched up to a loop in the collar, and men generally do not have the patience for such “fine” tasks. Miguel had just constructed a high metal roof over one section of the family’s patio to house a circular knitting machine and was training a young male employee to operate the sophisticated, computerized equipment.

When a local manufacturer entered the machinery import business and began bringing Spanish-made *circulares* to Tecpán in 2000, competition among Tecpán’s apparel manufacturers based on economies of scale greatly intensified. Circular machines put out up to 100 sweaters or children’s knit sets per day, making the labor cost per unit negligible, although it is difficult to find machinery operators in Tecpán who are already trained in how to use the equipment. The man who sells *circulares* has employees on his payroll, however, who can be hired out to provide training. Each machine costs between 300,000 and 500,000 *quetzales*, plus training costs, making it an investment that few can afford. One workshop owner immigrated to the US for three

years, working as a dishwasher in Los Angeles-area restaurants to save money for a down payment on a circular machine in order to ensure his competitiveness in the children's clothing market. Producers such as Miguel, well-established in the business and with sufficient collateral, take out bank loans to finance the upgrade. Others stick with rectilinear machines and say that they are better able to contend with market ups-and-downs because they do not have capital tied up in expensive equipment. And not everyone runs knitting machines. Some factories deal exclusively in t-shirts or cotton sweatshirts, ball caps or sweatpants, and their capacity depends solely on the number of sewing machines and seamsters they employ. The set-up of these operations closely resembles the much larger maquiladoras along the highway, with rows of small desks lined up in warehouse-style rooms.

Miguel's workshop is registered with the state tax and business administrations under the name Textiles Naomi S.A. His father incorporated the business when he moved from a rural hamlet to the town center, and chose "Naomi" because it sounded to him "like a famous brand." Other workshops that opened in the 1960s and 70s also took names that had a certain ring of cosmopolitanism and stylishness: *Metropolitano*, *Tejidos Dany*, and *Rams*. One workshop owner named his sweater workshop *Frankish*, which he explained to me was an English word meaning "in style." Others simply used one of their surnames. Miguel and his family rarely use Naomi as a brand name for their products, and instead favor the tags and labels they buy in Guatemala City that come from maquiladoras. The men's sweaters he makes feature brand names such as

Cherokee or Tommy Hilfiger, while the women's styles have tags such as White Stag or NASCAR Women.

I asked several garment producers why older manufacturers had incorporated their businesses and traded under brand names, while the younger generation deals mainly in informality and piracy. People offered varied, sometimes nostalgic, responses, explaining that the older generation complied with the law and paid taxes because they felt a sense of duty to "*cumplió con sus compromisos* (meet their obligations)," as one producer explained. Today, in contrast, they see the government as corrupt, the politicians as scoundrels. Another producer told me that the small workshops never register with the state because, in order to do so, you have to complete "*un montón de trámites*" (a lot of paperwork). Most of the producers talked about the use of a company name in terms of legality and compliance, and not as a marketing strategy. A few local workshops, however, have built up reputations for quality and style based on the use of their company names as brands. When I asked specifically why more workshops do not use their own names on garment labels, a second-generation *suetero* told me that it used to make sense as a way to promote your workshop. "After a long time, everyone knew the name and paid more for your products. But most people don't put their name on the products now because it is expensive, and no one knows the name anyway. The *consumidor final* [end user] does not care if something says, '*Hecho en Tecpán*.'" This producer senses that the proliferation and popularity of so many global brand names in the Guatemalan marketplace makes it difficult for local brands to yield any market advantage for the producer, in spite of the fact that traditional woven

goods made by “authentic” Maya men and women have tremendous appeal internationally (Nash 1993). Another medium-sized producer told me that using your own workshop name entails certain risks, since the brand might inadvertently draw attention to your business from the tax administration, eager to audit your sales records and tax receipts. In contrast to some members of the older generation and the several young workshop owners who are incorporating their businesses today (see Chapter 4), most *sueteros* view conformity with state law and tax codes as an unnecessary burden, something to be avoided.

Miguel uses sales receipts to keep track of revenue and pays a business tax to the federal government three times per year as well as local taxes assessed annually. Simply registering with the state does not mean, however, that a business abides by all state laws and regulations. Miguel is selective in terms of when he issues a receipt and when he does not. For example, if he delivers an order to a *mayorista* in San Francisco El Alto, it is unlikely that he will provide a receipt, which effectively relieves both him and his client from the obligation of paying taxes on that transaction. This is the kind of tax evasion that the national “*¡Pide su factura!*” (Ask for your receipt!) campaign launched by President Álvaro Colom in 2009 – just the latest of many postwar attempts to reform the tax system and increase state revenues from private enterprise – attempted to root out. Tax administration officials distributed signs to businesses around the country to display on their front doors as a reminder to customers, television and radio advertisements encouraged compliance, and posters proclaiming the importance of *facturas* greeted tourists and business travelers arriving at the airport.

Although some large workshops trade exclusively in the informal wholesale markets, selling hundreds of graphic tees, sweatshirts, or infant knit sets each week, there are other markets available to them as well. For example, Miguel pays a part-time salesman to visit primary and secondary schools throughout the Western highlands to secure contracts for student uniforms. These potentially lucrative deals ensure fixed orders for the months of January and July, when the academic semesters begin. He uses receipts for these orders, since schools have to report expenditures to the government. Uniforms are popular among parents at both public and private schools throughout Guatemala. The outfits usually consist of a soft-collared, cotton-knit shirt, a sweater vest or sweater embroidered with the school insignia, skirts for the girls and long pants for the boys, socks, and perhaps an embroidered jacket. Most schools allow indigenous girls to pair the shirt and sweater with a *corte*, a hard-won right to native dress for which Maya students in Chimaltenango protested in the 1970s, and which is now guaranteed in the national constitution. The institutional colors displayed in uniforms result in daily parades of school pride that are also walking advertisements for particular schools as children walk to and from the schoolhouses each day.

President Colom's administration curbed the uniform business in 2009. Presented to the public as "liberation" from unnecessary financial obligations and a "defense" of indigenous rights (Quinto 2008) since most schools still required the use of collared shirts in place of *huipiles*, the federal decree prohibited schools from requesting money for any school supplies from parents. In previous years, money had been solicited by teachers and administrators for everything from uniforms to text books and

afternoon snacks, with little recourse when fees varied dramatically from school to school or became excessive, as they often did for poor families. Now, the Ministry of Education was to cover all public education expenses, not to include uniforms. A parent whose son attended one of the public primary schools in Tecpán supported the new law, explaining,

This is the first year that public schools are actually free. Before, the teachers asked for maybe 150 *quetzales* from each student. There are maybe 1,400 students [attending primary school in Tecpán], so that is more than 200,000 *quetzales*. That's 30,000 dollars! What are they doing with all that money? The government pays the teachers' salaries and maintains the building. Some people say they use the money for birthday parties. And the uniforms – the teachers make money from that, too. They tell the students where to buy each piece [of clothing], so the teachers must be making something from that deal [*trato*]. It's like the mafia! A lot of parents think that the students have to wear uniforms so that you can't tell who is poor and who is not. I think it's very militaristic, a *recuerdo* [souvenir, reminder] from *la violencia*.

Many parents with whom I spoke had a positive view regarding uniforms, however, and felt it was important for students to wear them. Some noted that uniforms help to distinguish the “real students” from the “*delincuentes*” who might show up on campus to make trouble. Others worried that if students did not dress properly at school, they would lose respect for the rules of proper behavior and turn into gang members. Teachers with whom I spoke took offense to the idea that they had been charging

unnecessary fees, and, at the start of the school year, were quick to complain when federal monies arrived late, or sometimes not at all. “So, we are supposed to run a school without enough desks for the students? Without a broom to sweep the classroom? Without food for the children?,” a sixth-grade teacher at one of Tecpán’s primary schools complained to me. Reflecting a widely-shared suspicion of the national government’s understanding of local conditions and concern for the population’s needs, she continued, “The government would rather see the children starve than let us ask a parent for one single *quetzalito*.”

The uniform business slowed down considerably due to the new policy, but the parents’ organizations at many public schools throughout the highlands insisted that their children continue to wear uniforms. At the same time, Miguel and other workshop owners pursued private school contracts more aggressively. Workshops in Tecpán also seek out government contracts for public employee uniforms, contracts with international NGOs like World Vision and Christian Children’s Fund to make clothing for sponsored children living in rural Guatemala, and deals with formal retail shops in Guatemala City for regular orders of branded (sometimes authorized, sometimes pirated) or generic merchandise. Contractual arrangements with agencies and retailers specify the quantities to be delivered on fixed dates. If a producer does not meet quality standards and other contractual obligations, he may lose the business. But schools, government agencies, and NGOs pay on delivery or in scheduled installments as opposed the long-term credit arrangements favored by *mayoristas* in highland markets that place the burden of debt on producers. At the same time, not everyone can go

after contract work because of the formalization requirements and the level of capital investment needed to fill large orders. Whereas wholesalers are willing to buy in relatively small quantities, a producer has to put up a great deal of his own capital to produce thousands of sweaters or t-shirts for a school or NGO who pays only after the products have been delivered.

Some producers, in fact, see little difference between the informal consignment system and the pay-on-delivery arrangements that contracts generally specify. One producer who worked for several months supplying t-shirts and socks to Pais, the national discount retailer and supermarket chain owned since 2005 by Walmart, explained to me that contract work also puts the manufacturer at a disadvantage. The management at Pais often asked for him to bring additional quantities of particular sizes and colors every week or two, but always on credit, which made it difficult for him to keep up with their demands. He said,

Every time you make a delivery, you are leaving them with products that you will not get paid for until sixty days have passed. They are working with *plata de proveedor* (the producer's money) just like the *mayoristas*. You go into those supermarkets and think, "Wow, you can buy this stuff so cheap and there is so much of it." You wonder how they do it. Well, they do it by making us work on credit. This is everyone's situation. Everyone has the same problems. Maybe someone says to you, "Oh, everything is fine here. We have no problems with credit, and we have plenty of money to run this *fábrica*." They are not telling the truth.

Several producers in Tecpán who had secured contract work with Pais and even export contracts with US apparel distributors claimed to have “given up” those deals because the quality or quantity demands were too difficult to meet. Structural disadvantages such as limited access to credit and lack of formal educational opportunities that are common across the local industry tend to make cash flow a perpetual problem and limit the abilities of producers to comply with the kinds of professional standards that go hand-in-hand with multinational contract work. Nonetheless, formal, extra-local relationships are becoming more important within Tecpán’s apparel trade, as markets and market relationships are recomposed to favor both technological and social efficiency. More and more, innovation is aimed at volume and speed rather than design or the local values related to *presentación* described in Chapter 4 (with notable exceptions, also discussed in that later chapter).

Second Hand in the Third World

Apparel producers in Tecpán are not only deeply affected by global economic fluctuations, international trade arrangements that encourage the dumping of last-generation technology in developing countries, and national educational policy having to do with indigenous rights and student fees. They also contend with intense competition with a range of imported goods. For example, producers in Tecpán commonly lament the low price and widespread availability of second-hand clothing

from the US, which began pouring into Guatemala at a stunning rate in the 1990s.²⁷ As the anthropologist Tracy Ehlers (2000) shows in her study of another sweater-producing town, the influx of *paca*, as second-hand clothing is called because of the thousand-pound bales in which it arrives to Guatemala City importers, has put many *sueteros* out of business. It has also contributed to declines in the number of indigenous women wearing traditional *huipiles* and *cortes*. Whereas a woven *huipil* costs anywhere from several hundred to several thousand *quetzales*, and a sweater made in either San Pedro Sacatepéquez (where Ehlers carried out her research) or Tecpán runs from 40 to 150 *quetzales*, it is easy to find a second-hand blouse or sweater for five or ten *quetzales*. In addition to the used-clothing retail stores in Guatemala City and other urban areas with names like Megapaca, vendors and shopkeepers throughout the highlands buy bundles of *paca* from capital city distributors to break open on market days. Brand-name jackets, sweatshirts, sweaters, jeans, and shirts that are in good condition are sorted by size or style, hung up, and displayed on racks in shops and on sidewalks. Lower-quality *paca*, including used socks, old t-shirts, and worn-out pants or shirts are piled on tarps in the middle of the street and often sell for a single *quetzal*.

New imports also pose a problem for the domestic apparel trade. Mexico and China are Guatemala's two largest trading partners, after the US and the Central

²⁷ The worldwide trade in second-hand clothing grew from US\$207 million to nearly US\$1.5 billion between 1980 and 2001. The US is the world's largest exporter and the largest exporter to Guatemala, and between 1990 and 1997, US exports more than doubled from US\$174 million to US\$309 million (Hansen 2004). In 1997, Guatemala ranked tenth in the world in the amount spent in the used clothing trade (US\$1.5 million) and fifth in the world in metric tons of clothes imported (Ehlers 2000). Countries including India, Indonesia, and the Philippines have banned the importation of used garments because of what are viewed as adverse affects on domestic textile and apparel industries (Hansen 2004).

American Common Market countries. Mexico supplies approximately 11 percent of Guatemala's imports; China supplies more than 7 percent. While clothing has been entering Guatemala from Mexico for a long time, producers say that the quantity and quality of clothing from other countries began to impinge on their own businesses in the late 1980s. Free trade agreements signed with Mexico in 2000 and Taiwan in 1997 and 2005 ensure that textiles and apparel continue to be significant imports to Guatemala from these regions. Between 2004 and 2008, imports to Guatemala from China increased by more than 500 percent, with more than US\$1.3 billion worth of products arriving in 2008 (7Economy 2011). Highland markets, city streets, and retail shops are full of Mexican sweaters and East Asian casual clothing, some of it featuring unique brands such as Victoria (from Mexico), Vanessa (from Korea), and Gardenr (from Taiwan), and some of it with pirated brands such as Levi's, Diesel, and Nike. Chinese and Korean immigrants are also active in the wholesale garment markets in Guatemala City, where they deal primarily in imported goods. Immigrants from various Middle Eastern countries operate wholesale clothing businesses in the capital and often trade in East Asian imports brought to Guatemala from the free trade zone in Colón, Panama. Tecpanecos say that imported garments are of variable quality and price, but many agree that Chinese and Taiwanese imports, for example, are constructed of better-quality material than what is available in Guatemala but sell for lower prices than domestic goods. Mexican sweaters, which are very popular among Maya women who match them by color and style with their *huipiles* and *cortes*, are generally more expensive than their locally-made counterparts and are commonly said by both

producers and consumers to be more stylish, especially the plush acrylic styles valued both for their softness and warmth and the brilliance of the yarn colors. Tecpán's manufacturers simply do not have access to these same yarns, but nonetheless try to replicate the look and feel of the Mexican styles.

The relationship between the domestic apparel trade and the mostly South Korean- and US-owned *maquiladoras* between Guatemala City and Tecpán is multi-sided. Imperfect cloth from the factories sells cheaply in highland markets and retail stores in Guatemala City, comprising an important source of inputs for many highland manufacturers. Producers in Tecpán also use tags and labels from the export factories, examples of what economists call a "grey market" trade between authorized firms and informal and illicit sectors (Phau et al. 2001). But when imperfect garments or overruns of finished goods make their way into the domestic marketplace, like the Pepé brand jeans on sale in one retail shop in Tecpán that the owner had bought from a *maquiladora* in Honduras, producers say that their own businesses suffer. Francisco Toc, the owner of a large workshop in Chimaltenango that produces school uniforms and also t-shirts and polo-style shirts with pirated brands for the informal markets, commented to me that the *maquiladoras* were causing a lot of difficulty for local manufacturers.

The business is not as good this year as it was in the past. I am struggling to earn a profit. The problem is this: the Koreans come to Guatemala and now there are five or six *maquiladoras* right here [around Chimaltenango]. They pay no taxes. Everything is handed to them because they are foreigners [*extranjeros*]. When

they have *saldo* [overruns] or when something comes out wrong, they sell it for pennies. I mean, they sell something for ten *quetzales* that it costs me forty to make.

At the same time as the *maquiladoras* interface negatively with the domestic market in this way, Francisco goes on to explain the reality of Guatemala's growing dependence on export-led development programs. Maquiladoras provide employment for a large number of people in the Central highlands who are also his potential customers.

This year has been really bad because some of the *maquiladoras* have closed. Let's say there are five of them and each has 3,000 employees. The Koreans are very bad employers; they do not even let the workers go to the bathroom. But they pay. Maybe these employees are making 1,500 *quetzales* per month. That is a guaranteed salary, and if 15,000 people are out of work, that is millions of *quetzales* that are not circulating in our country. *Fjese*, those people can't buy shirts, they can't buy pants. They can't even buy food.

In his view, the problem is not so much with the *maquiladoras* closing down, however, as with the fact that Guatemala makes all kinds of concessions to attract foreign investment, only to have those investors move elsewhere when another country offers cheaper labor and a more attractive regulatory environment. Francisco, a one-time *guerrillero* who had to flee Tecpán during *la violencia* due to death threats against his family, takes a political stance on the issue. "*Los extranjeros ya llevan tiempo de hacer estragos aquí en Guatemala* (Foreigners have been messing things up in Guatemala for a long time)," he sighs, offering a subtle reference to our previous conversations about

the US role in the 1954 coup that unseated Guatemala's first democratically-elected president and ushered in the conflict era. This strategic reference indicates that he views export manufacturing as one more instant in what he described to me as a "long chain" of foreign interests influencing the lives and livelihoods of Maya people, often to the detriment, in his view, of their self-determination and well-being.

Some manufacturers in Tecpán say that they still hold certain advantages over imports, grey market goods, and second-hand clothing. Much of the *paca* that arrives in Guatemala, they say, is simply too big for Maya men and women, whereas local producers size their garments according to the height and weight of Guatemalan consumers. Some producers commented that East Asian imports and *maquila* overruns are often considered very stylish, but the color palettes are not appealing to highland customers. This presents an opportunity for some Tecpanecos to copy the styles of the imports and grey market garments but adjust the colors and other particular features in order to appeal directly to local tastes. Even so, the globalization of the Guatemalan apparel market means downward pressure on prices as well as the proliferation of branded goods that are often viewed as more fashionable and desirable than locally-made garments. As a few dozen workshops "break" or "go under" (*se vine pa abajo*) each season due to competition and other factors, there is much speculation among garment manufacturers about how others manage to stay afloat, a subject explored in the next chapter.

Chapter Three: The Ethics of Imitation

At the end of a long workday, Guillermo Ordoñez has loaded his Mazda microbus with garbage bags full of finished garments, carefully folded, stacked, and bundled by the dozen. Along with dozens of other producers from Tecpán, he will leave at four the next morning for San Francisco El Alto. Guillermo and I sit in his kitchen for a cup of coffee, and he complains about rising levels of competition among these producers over styles and pricing, competition that he says is unfair and disrespectful to one's neighbors. "The apparel business has made people in Tecpán *muy individualistas*. People are envious and only watch out for themselves," he says. "So, you have to watch out for yourself." He contrasts Tecpán with neighboring towns – San Juan Comalapa's artisanal traditions in weaving and painting, Patzicia's broader agricultural base – whose residents have apparently been able to maintain a sturdier sense of cooperation and solidarity. In giving this analysis he is clearly nostalgic about what he feels has been lost in Tecpán, where envy and individualism seem to be thriving.

In this chapter, I examine what garment manufacturers such as Guillermo mean when they commonly say that people have become envious and individualist. Processes of economic and legal globalization shape a changing "context of accountability" (Douglas 1992) in Tecpán's garment trade, with its differently positioned participants and its ambivalent relationships to the past and to the nation. I analyze what accusations of envy among garment manufacturers and within the wider community reveal about two aspects of the social field: first, the changing economic and social

conditions in highland Guatemala following the armed conflict and waves of neoliberal reform and, second, the nonlinear reproduction of historical identities and forms of moral and legal reckoning at the margins of the global economy. I focus particular attention on kin relationships based on ideals of reciprocity that encourage the sharing of knowledge and resources among workshop owners, relatives, and employees, a major factor in the industry's rapid expansion in recent years. I also look at how competitive behavior among workshop owners is evaluated locally in light of ideologies of race and nation that encourage class-based solidarity among Maya people. My findings emerge from extended conversations with manufacturers about what is right and wrong in business, about the concept of economic development, and about the law. The normative models and business practices evident among garment producers parochialize official portraits of progress and models of business ethics and development promoted in neoliberal policy agendas and international law.

In the apparel trade, accusations of envy often emerge alongside moral evaluations of pervasive practices of copying and imitation. Practices of sharing, appropriation, and copying – some of which qualify as piracy under national and international law – have a lengthy history in Guatemala. Maya garment manufacturers have long borrowed from and imitated one another, in addition to copying global trends. Certain acts of imitation have also been disparaged by manufacturers (as manifestations of envy, for example) even prior to IPR formalization. At the same time, trademark law in Guatemala has been largely ineffective. A decade after the legislation of strict protections, practices of brand piracy continue apace and norms I describe here

remain the dominant model for thinking about imitation and ownership. A few clothing producers, generally with higher educational status, have developed their own brands and talk about piracy as a potential threat to their business interests (see Chapter 4). Yet, even these manufacturers pirate global brands when it affords a market opportunity. As will be discussed in Chapter 5, most highland manufacturers are concerned about the legality and formality of their businesses only to the extent necessary to avoid interference by tax authorities. In discussions about law and crime, their primary concern is with the state's failure to address the country's rising violent crime rates and rampant impunity for violent crime, not their own possible legal transgressions.

The Rumor Mill

A successful but greedy local businessman possessed a strongbox full of gold that, no matter how much was spent, always remained full; anyone other than its owner who looked inside, however, would see only a tangled mass of black snakes, a clear sign of its nefarious origins. (Fischer 2001: 38)

This story, recounted by anthropologist Edward Fischer, is but one of the more colorful rumors that circulate in Tecpán linking wealth and witchcraft. Assumed to be motivated by envy, *envidia* in Spanish, wealthy people are often suspected of accumulating their wealth through occult, unethical, or illicit means. The term combines meanings of coveting and jealousy as well as greed. Envy is understood as a dangerous affective disposition, a malicious personality, and is associated with *mal de ojo*, the evil

eye. Falling under the stare of an envious person results in your bewitching, bringing illness or other misfortune, a common belief across many peasant and petty capitalist societies (Foster 1972; Dow 1981). Talk of envy has a long history in the highland region (Tax 1957) and is a dominant discourse used to express and evaluate the moral hazards that have accompanied rapid industrial change and transformations in Tecpán's social organization in recent decades.

Closely associated with material accumulation and processes of class stratification, envy is often regarded in the anthropological literature as a negative mechanism for the maintenance of egalitarian social and economic relations. George Foster's (1965) seminal work on envy explains its ubiquity and power in terms of a worldview shared among Latin American peasants founded upon the "Image of the Limited Good." Peasants regard resources such as wealth and prestige as finite and scarce, creating a "zero-sum game" in which people who accumulate more than is customary are seen as taking away from other people (Tausig 1980: 15). Emphasis on class and ethnic solidarity among a subordinated population has been theorized by a long line of anthropologists working in the Maya region (Vogt 1961, 1969; Annis 1987) as evidence of what Richard Wilk calls a "fierce egalitarian ethos" (1983: 103), enjoining the distribution of material resources across indigenous families through well-organized political and religious institutions, such as the fraternal *cofradía* system (Wolf 1957; Warren 1978; Brintnall 1979). With this scholarship as a backdrop, I am interested in the politics of fairness and equality in changing Maya communities, understanding

egalitarianism not as a static trait but as a contested norm, a fraught reality, and a normalizing discourse.

The accumulation and concentration of wealth yields accusations of envy in Tecpán, where relatively well-to-do manufacturers are accused of obtaining their wealth by nefarious means and violating a loose property regime – what the political scientist James Scott (1976) might call a “moral economy” – that allows for certain forms of sharing, copying, and imitation. Cooperation among kin and neighbors has been an economic resource for Tecpanecos since the trade’s inception in the early 1960s. As discussed in Chapter 2, apparel manufacturing offered new opportunities for Tecpán’s indigenous population, whose traditional household economy, based in subsistence agriculture, has been increasingly threatened by land privatization and a growing population. Unlike labor on plantations or in maquiladoras, garment manufacturing allowed Tecpanecos control over the means of production, an important cultural and moral value among Maya peoples (Fischer 2001; Watanabe 1992). Manufacturers need no formal education, important since only half of the Maya children in the department of Chimaltenango (where Tecpán is located) who enroll in school complete their education through the sixth grade (MINEDUC 2008). Also, the cottage industry requires minimal capital investment. A used, manual knitting machine costs around a thousand *quetzales* (US\$125) and thread, yarn, and cloth distributors regularly sell on credit. The industry has expanded largely through apprenticeship and kinship connections. People

who are already established in the trade help the next generation get started, teaching them the necessary skills and providing capital gifts and loans.²⁸

Kinship patterns in Tecpán are patrilineal, favoring the father's line (Fischer and Hendrickson 2003: 46). A new bride commonly goes to live with her husband and his family. It is customary for the new couple to remain with the husband's family until a proper home has been prepared for them on the family's land, the plots getting smaller with each successive generation, or, more commonly in Tecpán's semi-urban center, a few more rooms can be constructed on the family's house. The husband's patrimony often includes the means to make a living as well. If the family could not afford to send him to high school or university for professional training, he may take up his father's trade. This is common among apparel manufacturers, whose sons work beside them from a young age and are often given machinery and cash as capital when they marry, part of a constant, informal flow of gifts and loans among parents and children in Tecpán (Fischer 2001: 174). From an early age, male children are expected to "pay back" their parents' "life-giving generosity" through household labor, and in adulthood, demonstrate "filial piety in the form of gifts," including money (Fischer 2001: 144). This set of expectations has implications for how personhood and property are configured in Tecpán, since "contributions to procreation ... create entitlements that are realized in the form of limited claims on one's offspring and what they produce" (Kirsch 2004: 25; see Chapter 1). Reciprocity may reach beyond consanguines. If a new husband's work prospects are viewed as paltry by the bride's family, her parents or other kinsfolk

²⁸ Ortez (2004) documents a similar pattern in the apparel trade's expansion in the Western department of Totonicapán.

intervene to provide training and capital to get the couple started. Mutual aid relationships also extend to employees. Workshops generally employ young men of meager means and little education from the town center and especially surrounding hamlets. Employers often teach what they know about operating and repairing machinery, crafting designs, and marketing to these teenagers, many of whom leave these factories to start out on their own, sometimes taking along a rusty machine and a capital loan.

I sat down with Manuel Chicoy, one of the earliest apparel producers in Tecpán, to talk with him about the former employees, including two sons, who left his workshop over the years to start their own businesses. Manuel specializes in women's sweaters. About seventy-years-old, he now divides his time between overseeing the garment workshop, where his youngest son manages day-to-day operations, and the two-story hotel near the center of town built with his profits from the apparel trade. As we talked in the hotel office, I asked Manuel about the growth of the cottage industry. His reply reflects a style of Spanish that is common in indigenous towns such as Tecpán, where, for most people of Manuel's generation, Spanish is a second language. Sentences are often short, and due to the influence of both Christianity and traditional Maya spirituality, ordinary conversation often involves parable and a moral lesson. He says,

It's like this. You encounter a man in the street, and he says, "I don't have work. My family is hungry and I don't know what to do." So, you say to him, "Come with me. I'll give you work." Years later, he says that he wants to start his own

workshop. You say, “Very good, here’s your capital, buy what you need.” That is what we have to do – help each other, help our neighbors.

Cleanly-shaven and neatly-dressed in tailored pants and a collared shirt, Manuel sits across from me at the table in his otherwise bare office and relates this story to me with great intensity and conviction. Knowing from previous conversations with workshop owners and town residents that moral tales generally convey an ideal rather than report a factual state of affairs, I press him on the question of whether or not more workshops in town would mean greater competition, and whether or not that might challenge the sustainability of his own business.

Manuel does not give my inquiries much thought before he continues: “I think it is development [*un desarrollo*] for everyone. The more production we have, the more business, the products just get better and better. I don’t see it as competition. It’s a way for all of us to better ourselves. That’s the kind of development we should pursue.”

This genre of talk about neighborly kindness and mutual obligation echoes religious themes that circulate globally and manifest in particular ways among Guatemalan Catholics and a booming neo-Pentecostal movement (O’Neill 2009). Protestant pastors advocate “participation in the new community of ‘brothers and sisters’ who work towards the common goal of self-betterment” and promote a “new ideology [that] emphasizes individualism, competition, personal improvement, and social and economic progress” as positive values (Goldín and Metz 1991: 334). Both Protestants and Catholics involved in commercial enterprise increasingly embrace these values (Goldín 1992), though not without protest. Many garment manufacturers

bemoan a generalized ethical shift away from solidarity toward individualism. A medium-sized producer complained in an interview, “We in Tecpán are very individualistic. We dedicate ourselves to our work, to our own affairs, our own commitments ... everything that has to do with our family and our business, and that’s it.” He blamed individualism for many problems, from fights among neighbors and family members to *delincuencia*, a general term for disrespectful or criminal behavior perpetrated by town youth. The integration of commercial enterprise with social institutions such as religion, family, and economy is never simple. At the same time, anthropologists note that the discourse of competition and self-betterment promoted within Protestantism and now widespread among highland Maya people is often grounded in appeals to “fundamental Maya values associated with community solidarity, support, and guidance” (Goldín and Metz 1991: 334). This kind of hybridity is readily apparent among apparel manufacturers, whose livelihoods are grounded in competitive market behavior but who are nonetheless expected to integrate themselves into networks of reciprocity and, in a model reminiscent of the older *cofradía* system, support the success of neighbors and kin through financial as well as spiritual and moral assistance. There are similarities here to Sylvia Yanagisako’s work on family textile firms in Italy, where she found that kinship and the sharing of resources within a bounded social context have been as important to that industry as individual ambition and market competition. She writes,

The Como silk industry is the result of a continuous generation and regeneration of family capitalism by people whose desires for capital accumulation have been

incited by sentiments of family unity and communalism, but also by sentiments of individualism, independence, and competition. ... As sentiments in play at different moments in the developmental histories of family firms, trust and betrayal shape the character of technological diffusion, firm competition, and the creation of new firms. They are, on the one hand, products of the workings of Italian family capitalism. On the other hand, they operate as forces of production of Italian family capitalism. (Yanagisako 2002: 11)

Similar dynamics of trust and betrayal, cooperation and competition, animate Tecpán's cottage industry. And as the uncertainties of capitalist enterprise put a strain on communal ties and induce further competition, producers sometimes grow nostalgic about lost values of solidarity and egalitarianism, sentiments that are, in turn, interpreted in ethnological accounts as evidence of a sullied past.

Manuel cautions against the destructive nature of competition, even as he extols commercial enterprise as a source of self-improvement and community development. One day, I climb the tiled stairway with him from the hotel lobby to the second-story rooftop. Looking out over the neighboring houses, Manuel points out the home-workshops of other manufacturers he had trained or assisted over the years. He returns to his earlier point about the importance of helping one another, then adds,

Not everyone understands it as development. Instead, they take it as envy, as competition. But if someone asks you for something, you give it to them. People come into town and ask me where a different workshop is because they want to buy something there, and I tell them. If I were to say that I don't know where it

is, just because I don't want them to buy from a different workshop, that's pure envy.

At least in part, Manuel is positioning and politicking. Helping your neighbors and sharing your resources are common refrains among Tecpanecos, who are constantly negotiating their standing given that garment manufacturing has led to some socioeconomic stratification (Thomas 2009). Don Manuel literally sits above most of his neighbors in his two-story home and workshop, not to mention the adjacent hotel. Manuel and others who got their start before *la violencia* (as the bloodiest years of the conflict are known) capitalized on the new markets opened up by apparel manufacturing and, in relative terms, amassed small fortunes, enough to build a large house, buy a car, send a child to college in the capital city, or open a second business.

Constraints on employment and educational options for indigenous people mean that scores of men in Tecpán opened up workshops after the conflict subsided in the late 1980s and throughout the 1990s. The kinship and apprenticeship model of social reproduction has enabled growth despite the seeming contradictions between its emphasis on reciprocity and solidarity and the neoliberal model of entrepreneurship promoted on a global level. Yet, the rate at which new workshops have opened, together with the market pressures impelled by structural adjustment policies, contributes to intense feelings of competition among neighbors. The crowded marketplace makes it difficult for anyone to earn a "minimum income" (Scott 1976), the level of economic security that petty capitalists seek to maintain amid market pressures and given sentiments of community solidarity. Neighbors look at the wealth that older

manufacturers like Manuel display in multistory houses and late-model cars and wonder how anyone could achieve that level of success without dealing in the occult or engaging in unscrupulous behavior.²⁹ When it comes to how Mayas see upward mobility, there is often suspicion about assimilation to non-indigenous culture. Racial, class, and cultural divisions have separated Guatemalans into two groups since the early nineteenth century, when a “complicated colonial racial scheme” collapsed into a dualistic division between indigenous people and *Ladinos* (Grandin 2000: 83-85). As anthropologist Linda Green notes, economically successful Mayas are sometimes accused of “acting as agents” of racism and oppression (2003: 56), which anthropologist Liliana Goldín attributes to the fact that *Ladinos* are “thought to be wealthy (or wealthier than Indians) from the exploitation of poor Indians” (1992: 112). As for Manuel, he appeals to neighborly ethics at a time when the “regional class system” (Smith 1984: 194) is undergoing new and different changes and when the specter of conspiracy and neo-colonialism hovers over some houses and workshops more than others.

Ethnic classificatory schemes in Guatemala are flexible; indigenous people often “pass” as *Ladino* outside their home communities, for example, to avoid discrimination (Warren 1998: 10-11). Carol Hendrickson writes of “relative ethnicity” in Tecpán, by which she means that people are often said to “act like” a Maya or a *Ladino* “in certain contexts and for particular reasons” (1995: 33). The more successful manufacturers in Tecpán are referred to, somewhat jokingly, by other manufacturers and town residents

²⁹ There are similarities here to the occult economies and suspicions regarding capitalist accumulation in post-apartheid South Africa, as described by Jean and John Comaroff (1999), and in Bolivia and Colombia, as described by June Nash (1979) and Michael Taussig (1980).

as “*medio-Ladino*,” implying an aspiration to associate with, and adopt the public markers of distinction that set apart, an economically and politically more powerful group. The label sometimes also connotes a sense of ethnic betrayal. The adoption of a non-indigenous “cultural style” (Ferguson 1999), variously defined according to more extravagant consumption habits, wearing less formal or more expensive clothing, an air of conceit in relation to indigenous peers, even use of an indoor shower rather than the traditional *tuj*, or sweat bath, is often interpreted as a loss or rejection of traditional values. In short, to say that someone is acting “*Ladino*” generally means that person behaves selfishly, takes advantage of people, and thinks himself above or better than his indigenous peers (Hendrickson 1995: 18). This haughtiness might be comical, since he is unmistakably indigenous to local people because of family ties, a Kaqchikel surname, or physical features socially inscribed as indigenous traits. One producer commented that another man was becoming “like the *Ladinos*” because the man was consumed by greed, had built a fancy house with an ostentatious brick façade, and grown out his curly hair, an unusual style among indigenous men. Another producer referred to a neighboring manufacturer as “*medio-Ladino*,” explaining that he had two cars, including a late model SUV, and was wearing “*original*” clothing, more expensive styles purchased in formal retail shops. If ethnic boundaries are somewhat flexible in Guatemala, it is also the case that there are well-defined modes of policing those boundaries and latent assumptions and anxieties about who belongs where and how ethnicity is related to morality, propriety, and social class.

Murmurings about whether one is becoming too much like the *Ladinos* can sometimes fold over into questions about one's very status as an indigenous person. One well-to-do manufacturer is the subject of a popular rumor about with his blood lines. The man belongs to the first generation of garment manufacturers and now owns a great deal of land in and around the town center. Originally from one of the more remote aldeas, it is alleged that he is the illegitimate son of a Maya woman and the German planter who employed her as a servant in his home. Such a scandalous union is cited as the origin of his unusual physical features – a tall, stocky build, light complexion, and grayish eyes – which seem incongruent with the fact that he speaks Kaqchikel and that his wife and daughters wear traditional dress. The rumor also serves as something of an explanation for his exceptional business acumen, and people suggested to me that he has been treated well by the *Ladinos* in the banks and the suppliers in Guatemala City because they are “tricked” (*engañados*) by his appearance, thinking that he is “one of them.” Stories about this producer strikingly illustrate the complicated “ideologies of blood, culture, the body, sexuality, and social power” that “combine to produce contradictory, ever changing notions of racial identity” in highland Guatemala (Grandin 2000: 230).

Talk of envy has genres. One frequent invocation of envy is to explain the tragic and unfair collapse of collective ventures, especially economic ones. For example, a group of garment manufacturers formed a cooperative in the late 1980s to more efficiently source raw materials. After some initial success, the cooperative began to struggle and was eventually dissolved. I talked with dozens of manufacturers about why

the cooperative failed. They told me about a national thread and textile firm opening a retail outlet in Tecpán, basically eliminating the need for the cooperative. Many people then added that the real problem was *envidia*. They alleged that the cooperative's directors were envious. They paradoxically did not like seeing the members benefit from its services, so they ran it into the ground. Some even stole money from its accounts. There are dozens of stories like this in my field notes; a situation ostensibly caused by structural dynamics is also explained in terms of morality. One young apparel producer complained to me that another manufacturer had beaten him out of several lucrative production contracts to make school uniforms. In contrast to the vagaries and crediting demands of the wholesale and municipal market trades, these contracts guarantee the sale of a specified quantity and promise full payment within a month or two of delivery. The producer who had lost several contracts described his competitor,

This man has a workshop in one of the *colonias* on the edge of town. Not just a workshop, it's a *media-maquila*. He wins contracts because he deals in prices that are much lower than what we can offer. The truth is, I think he's a *narcotraficante*. He walks around with a pistol, and that's why I say, maybe he's a drug trafficker, and he has this *maquila* in order to throw people off his trail (*para despistar*), because he sells everything at prices that are way too low to make a profit.

In a contemporary twist, it is not the devil with whom this entrepreneur has allegedly made his pact (Nash 1979; Taussig 1980), but the murderous drug gangs who today wreck havoc on Guatemala's capital city and Northern provinces. The fact that he is

known to have significant advantages of scale does not prevent speculation that his pricing is simply too low for a legitimate, profit-earning enterprise. Fantastical tales about his shady dealings are facilitated by spatialized moral codes (see Chapter 5) since he lives “on the edge of town,” has no known family connections in Tecpán, and seemingly appeared out of nowhere just a few years back.

One of the wealthiest, best known factory owners in town is also a frequent target, rumors circulating that he cheats neighbors for personal gain, and is ultimately motivated by envidia. He was one of the first producers to invest in high-capacity knitting machines, thus one of the first to increase the scale of production. Many workshop owners in town say that he is the main reason for declining prices, increased competition, and all kinds of economic hardship. The most egregious acts he is rumored to have committed relate to the armed conflict, however. It is said that this man led guerilla fighters and received money from the government as part of the peace settlement. Instead of disbursing the funds among his troops, he reportedly pocketed the total amount, using it to establish himself in the apparel business. Among many other meanings, this rumor reflects a sense of uneasiness about the peace process and concerns about who benefited and how the promises made regarding assistance for indigenous communities affected by violence have or have not been kept. This man’s success is marred by suspicions of theft and betrayal.

The impersonal workings of the market economy, the mastery that some entrepreneurs develop over the skills and dispositions necessary to accumulate capital, and the structural forces that make it difficult for many to do so become ordinary or

eventful in the idiom of envy. This sociology of symptoms and suspects is itself symptomatic of the touch of various cultural frames and historical burdens. The military strategically targeted indigenous professionals and business owners during the armed conflict, fueling rumors that people turned one another over to the state out of envy (Fischer and Hendrickson 2003; Sanford 2003). More than petty gossip, rumor has emerged in the post-conflict era as a key medium used by national and local officials to generate uncertainty about who precisely is to blame for the shortcomings of Guatemala's peace process while localizing blame onto amorphous troublemakers who are said to be responsible for disrupting community life (Benson 2004). Rumors about envy and accusations of individualism fold in a great deal of suspicion related to "that odd fusion of ... hope and hopelessness, of utility and futility, of promise and its perversions" that characterizes millennial capitalism in general (Comaroff and Comaroff 1999: 283) and postwar national development policy in Guatemala in particular. Entrepreneurship, promoted by international institutions, national officials, and non-governmental organizations as the key to ending poverty and achieving first-world modernity, does not always or even usually lead to economic security and also entails moral and legal hazards. Tecpanecos sometimes respond to the competitive market situation in which they find themselves by drawing on moral discourses that help to make sense of the promises of entrepreneurial success, on the one hand, and the difficult realities of postwar social life and economic struggle, on the other.

The Ethics of Imitation

There has been an explosion in foreign goods coming into Guatemala since the armed conflict ended. Mexican-manufactured clothing, Chinese and Taiwanese imports (much of it featuring pirated brands), and second-hand clothing from the US spill out from the brightly-painted concrete block shops onto the sidewalks in the wholesale garment district along La Bolívar, one of Guatemala City's major avenues. The influx of these products puts downward pressure on prices; imports may be of higher quality but are often cheaper than Guatemalan-made goods. The globalization of the Guatemalan clothing markets also means access to new designs, styles, and brand names for highland manufacturers. Imitation is the most basic and ubiquitous mechanism through which they develop their product lines, sometimes imitating imitations, since Guatemalan manufacturers frequently copy pirated apparel from China. This is true across the international fashion industry, as historian Mary Lynn Stewart (2005) notes. Even in the world of *haute couture*, designers and manufacturers draw inspiration from other garments and develop skills and techniques by trying to replicate them.

Alberto Ixim was born in Xenimajuyu', a tiny hamlet outside of town. His mother moved the family to Tecpán in 1982 after Alberto's father, an early purveyor of children's clothing, was killed by the Guatemalan army. Alberto often invited me to his house for afternoon coffee after I had worked a long day beside the *tejedores* or seamsters. One day, he complained to me that wholesalers had lost interest in the children's clothing styles he produces. He was embroidering Winnie the Pooh and Spiderman figures on the little shirts and pants, but many manufacturers use these

same popular cartoon characters on their garments. So, he wanted to set himself apart from the competition. Alberto reached into the back seat to grab a small fleece shirt and said, "This is what I want to do." I asked if the garment was a *muestra*, a sample he was working on to show potential buyers. He replied that it was a Mexican import that he bought a few days before on La Bolívar. Alberto explained: "When I go to the capital city, I look at what the Mexicans are doing. I prefer to copy the Mexicans or the Chinese. A lot of people just copy what their neighbors are doing. But you make enemies that way."

Alberto sells to wholesalers on La Bolívar every Friday morning. One Friday, we arrived very early, before some of the shops had opened. He said that he hoped to get there before anyone else from Tecpán.

When everyone is walking around at the same time, people see your newest designs. They see how many bundles you're delivering, how much you're selling. They might be envious. Some will come along right behind you and ask the wholesaler how much you charged him. And they'll say, 'I can make that for less.' That's how the *copiones* work."

The term *copión*, which means a copycat in the classroom, is commonly used to disparage garment manufacturers who copy other producers in ways said to be unethical. For example, if you do not make some kind of change, introduce some creative element when you copy someone else, you are called a *copión*.

There are similarities here to the norms related to copying and imitation among handicraft vendors and traditional weavers in highland Guatemala. The anthropologist

Walter Little writes, “[Handicraft] vendors try to give tourists the impression that they are not in competition with each other.” Yet, Little continues,

Unsuccessful vendors are jealous of successful vendors and say derogatory things among themselves about those who consistently have high sales, and they try to copy successful designs. ... Showing jealousy, trying to steal customers and otherwise attempting to demean competing vendors in front of tourists is considered to be not only poor taste but wrong.” (Little 2004: 120)

Here, outward displays of ethnic solidarity emerge as an economic strategy since foreign tourists often go looking for “Indians,” people who belong to a presumably homogenous and harmonious group defined “in relation to both tourists and to *Ladinos*” (Little 2004: 119). Feelings of “jealousy,” what I gloss in this article with the term envy, challenge vendors’ abilities to live up to globally-circulating stereotypes about the “perceived steadfastness” of traditional communities (Dudley 1996: 47), since these feelings inspire what is perceived to be unethical behavior, including the direct copying of competitors’ designs.

Likewise, Carol Hendrickson’s (1995) work on Mayan weaving shows that it is a matter of pride for weavers to know what designs to imitate, but also to add some creative inflection that demonstrates their particular skills. This mode of imitation indicates respect for past generations as well as the weaver’s participation in a community-based form of production. Edward Fischer (2001) notes that the consumption of *huipiles* and *cortes* also participates in this kind of borrowing and appropriation. As an indigenous rights movement gained strength in the 1990s during

the peace negotiations, activists began to rally around a “broader concept of Maya-ness” rather than community-based or linguistic affiliations. Traditional dress became an important source of expression for emerging identities and ethnic politics, such that “Maya women are mixing and matching *huipiles* and *cortes* from various communities into a single ensemble, creating new aesthetic conventions that incorporate the beauty of other styles while subtly underlining notions of pan-Maya unity.” Fischer adds that one master weaver [in fact, my former teacher] was conducting research at the Museo Ixil de Traje Indígena in Guatemala City “to record patterns in older textiles that have fallen out of use. She uses these older, more ‘authentic’ designs and colors in her own work” (Fischer 2001: 119).

Garment manufacturers are what economists and economic anthropologists might call “adaptive entrepreneurs” or “imitative followers” who, as Alan and Josephine Smart (2005) explain, “adopt rather than develop technology and products.” In the formal economy, adaptive firms are often hired as subcontractors to produce goods that will be marketed by other companies, “sold under another company’s brand” (Smart and Smart 2005: 10). As participants in the informal economy, they are dubbed pirates. Yet, just as with handicraft vendors and weavers, garment manufacturers take pride in creativity, improvising on styles they see in malls, online, and at the markets and shops where they sell. For example, Alberto might take a fleece romper design that he sees on the Baby Gap website and substitute sweater knit for the bodice – partly because he can make sweater knit with his machinery, so it is cheaper for him, and partly because this improvisation will be a selling point for him in the market. In an interview with a young

manufacturer from another apparel-producing town, he notes proudly that his family deals in “*imitaciones*.” “We copy it, but we make it better,” he says, explaining that they start with popular youth styles they see on websites and in upscale commercial centers and tailor them to the local market, producing something that suits their clientele in terms of price, but also in terms of color palette and overall design. It is common for highland producers to mimic certain elements of a neighbor’s design as well, but they are expected to make changes that will set their garments apart in a meaningful way. A producer might copy the cut and brand of a cotton t-shirt that his neighbor is manufacturing, for instance, but change the color scheme and also screen-print rather than sew on the logo. This is seen as a legitimate form of borrowing and appropriation. Although directly copying a neighbor’s design is admittedly easier, it takes advantage of an already open system, where producers acknowledge the economic and moral legitimacy of limited kinds of copying and imitation.

In fact, one young manufacturer I got to know rejected the discourse of the *copión* on the grounds that everyone copies, although some people are better at it than others. Having apprenticed in his grandfather’s sweater workshop for many years, Jorge Costop started his own business when he married at age twenty and, four years later, produces sweatshirts and polo shirts in the latest youth styles. He employs three young men at sewing machines and two others at manual knitting machines, all crowded into a single room constructed out of wooden planks and sheet metal. “You have to know why you like something,” he explains to me as we look over the hooded Hollister sweatshirts he is packaging up for market.

Maybe it is the color, maybe a combination of colors or the pattern, or something else. For example, that shirt you are wearing [pointing to my striped cotton tee], if I like that shirt and I want to copy it, I would have to ask myself, what do I like about it? Is it the cut, the colors, the combination of the colors, or the order they are in? Then I would use what I like to make my own design.

Jorge talks about copying as a skill he honed through his work for his grandfather and as the designer for his own workshop. When I ask him about copying among neighbors, he relates how he and other young manufacturers who are his friends share ideas back and forth regularly with the understanding that they will each make those ideas their own in accordance with the norms described above. He then adds,

Many people think that copying is a problem. The reality is that no one is “the first” [*no hay primero*]. When a product comes on the market, the whole world is copying it. Let’s say it starts with a style that comes from Spain or Paris or the United States. It arrives in Guatemala and we like it, so we copy it. But the ideas are our own [*son nuestras*]. It is pure *egoísmo* [selfishness, self-centeredness] if people are complaining about others copying their styles. If a style is popular and a lot of people are making it, there will only be more demand for it. People are just envious of each other if they say that copying is a problem.

Jorge points to the global nature of the design process, the connections to an international trade that are part of his experience as a fashion producer, even in a marginal place like Tecpán. His comments take on an air of defensiveness when he talks about how people might be critical of his role in the process, as someone who draws

inspiration and ideas from others. As part of this defensive stance, he turns accusations of envy commonly leveraged against those labeled *copiones* back on potential accusers to suggest that it might actually be people who are successful copiers – that is, people who are skilled at copying in ways that result in popular designs – who are the targets of envious stares.

Most often, however, people are called *copiones* not just because they copy exactly what someone else is selling. They also sell the product for less than what the other manufacturer is charging. That is what Alberto was trying to evade during our early-morning visit to La Bolívar. “It is a normal reaction,” one producer explains, “for people to get angry with one another, especially when you are offering the same product at a lower price to the same buyer. That is when people get really upset.” Another producer tells me that he has begun travelling to more distant markets to avoid meeting up with other manufacturers who might steal his designs. Already part of a “shadow” economy (Nordstrom 2004) in an out-of-the-way place, he refers to his strategy as “selling undercover.” “*Yo vendo escondido,*” he says. “If not, they will copy what I am selling and then come back and offer it to my buyers at a lower price. It always depends on what kind of machinery you have and your talents, but everyone tries to copy everyone else.” Alberto and many other garment manufacturers interpret price-based competition, a predictable and rather ordinary market strategy in neoclassical economics, as both unfair, since everyone suffers when prices go down, and morally problematic, evidence of *envidia*.

Part of why the pirating of global fashion brands is socially acceptable throughout much of Guatemala is because the expensive products sold by international fashion firms are beyond the reach of most Guatemalan consumers. There is also the idea that foreign manufacturers do not know what the people want to buy, so it is up to local workshop owners to tailor styles to local tastes. Copying an imported garment or a style made popular by a foreign company is seen as part of the business, a good way to avoid the problems of local competition, and an intelligent business strategy. As one producer admonished, "If you don't have any creativity, copy the good stuff," by which he meant the high quality "*originales*" sold in formal retail shops and marketed in the media. People who resort to directly copying neighbors are seen, from his perspective, as unskilled, indiscriminate, and unsavvy. Meanwhile, foreign corporations and manufacturers seem distant. Driving through Tecpán at the close of another work day, Alberto and I passed by a clothing shop with several Abercrombie sweatshirts displayed on clothes hangers in the entryway. He commented, "You see a lot of clothing that says Abercrombie on it. Abercrombie is not here." Then he began to laugh. At once a critique of Guatemala's position in the world system, as a place from which globally-popular things like Abercrombie simply do not originate, Alberto was also making a joke out of the fact that the Abercrombie name and logo are indeed everywhere in Tecpán and in Guatemala more generally.

"Do you mean that Abercrombie is not from Guatemala?" I asked to make sure I got the joke, and he laughed even harder. "It is definitely not from Guatemala, and definitely not from Tecpán," he replied.

Legal and business scholars often assume that people are ignorant of how their participation in piracy markets affects rights-holding corporations and thus promote educational campaigns and other consciousness-raising programs as one mechanism for deterring piracy production and consumption (see Chapter 1). Among the Maya entrepreneurs I got to know, however, it is simply not the case that they are unaware of how they are connected to international markets. Producers like Alberto are all too aware of how market dynamics, from the importation of cheap garments to the subsidization of multinational manufacturers rather than domestic producers, challenge the sustainability of their local industry. Producers tend to respond to these conditions in ways that seem ethical given their obligations to kin and community. A normative order that privileges the proximate is evidence that values other than those assumed to be natural or superior within the international development agenda exist even in places that have a longstanding relationship to it.

Once we got to know one another, manufacturers did not try to hide from me the fact that they participated in brand piracy. The use of brand names and logos was simply one aspect of garment design and a routine part of the trade. Yet, despite a lot of talk about copying, the term “piracy” rarely surfaced in our conversations. In an interview with one small-scale producer, he suggested that the *copiones* are just like the *piratas* (pirates) he had read about in the newspaper who sell CDs and DVDs in the capital city streets. “The people who make the original discs complain because they can’t sell them for the price they want,” he explained. This producer, who traded in pirated brand names himself, interpreted the criminalized problem of piracy in line with

the localized ethics of copying, as a problem of pricing and fairness rather than ownership.

Even though a consolidated discourse regarding piracy has yet to take hold in Tecpán, the discourse of the *copión* does reinforce some of the same goals as intellectual property laws that cover trademarks and fashion design. Those who complain about copycats seek to protect an investment they have made in crafting what they consider to be a new or unique design so that they can reap reasonable profits from their work. This sometimes leads manufacturers to adopt defensive strategies such as selling in more distant markets or selling at odd hours of the day in order to protect their designs from would-be copycats. It can also lead to more direct claims of ownership. For example, Pedro Serech, a Maya man who owns an embroidery shop in Tecpán, explained to me that some of the characters, figures, and logos he stitches onto clients' garments have "owners." Pedro bought a used, eight-head embroidery machine from a dealer in Guatemala City in 2004 with loans from the bank, his father, and a sister who works as a secretary in Guatemala City. Almost all of the embroidery designs he uses come from compact discs loaded with pirated digital images of cartoon characters, popular fashion logos, and sports team logos (especially soccer clubs). Pedro can customize one of these images on his desktop computer and then reproduce it simultaneously on eight garments by loading it onto the computerized embroidery machine.

As we looked through the images stored on Pedro's computer, he showed me how he organizes the files into folders, and explained, "There are folders for each one of

our clients. For example, if someone wants embroidery for a [school] uniform and we made it for them before, I have it right here. And in this folder,” he said, pointing to the screen, “I have everything that is of general use for baby clothing. And here [pointing to another folder], I keep everything that doesn’t have an owner.” He double-clicked the mouse and opened the folder to show me these “un-owned” images, which included everything from Mickey Mouse characters to Reebok logos. “These are the ones that I can sell to anyone. They aren’t exclusive designs. For example, here are some that belong to Alberto Ixim.” Knowing that I helped out in Alberto’s workshop, Pedro felt comfortable using him to illustrate the point, and he showed me several digital images that I recognized from Alberto’s garments. There were teddy bear and flower designs that Pedro said he and Alberto worked on together, starting with just a pencil-and-paper sketch or a generic clip art file. Some were trademarked cartoon characters. “So, this is just for him [*sólo es de él*],” he declared.

“You wouldn’t sell them to other people if they asked for them?” I inquired, trying to understand how this kind of protection works given the seeming ease with which people copy one another.

“No, I don’t want to sell these to other people. So, I have all these others that I can give to whoever wants them. I maintain, I try to maintain that difference, because you can’t trust other people, because the competition is always like this. At any time, they can copy you. So we, at least, try to help out our clients.”

In the embroidery business, providing a measure of intellectual property protection has emerged as a way for Pedro to differentiate himself from his

competitors. He tries to “help out” his clients by protecting them against the *copiones*. In a subsequent conversation, Alberto explained to me that he usually asks Pedro to hold a particular design in reserve, just for him, for a period of two or three months. After that length of time, either the design is no longer in demand or, if it has been successful, people have noticed and begun copying it, regardless of Pedro’s safeguarding (it is easy to have another embroiderer reproduce the image), and it is time to move onto another idea. Pedro’s respect for individual ownership over designs provides at least some measure of protection for his clients, even if it is short-lived. And he, like Alberto, attributes the need for this kind of protection to the moral dispositions of apparel manufacturers, “because you can’t trust other people.” This shortcoming is explained, in turn, as part of what competition means: “the competition is always like this.”

The parallel between producers’ attitudes and some of the principles that underlie IPR law apparent in such cases “emerges from the context ... and from the kind of work that they do – from the labor process,” as anthropologist Kathleen Gordon argues regarding the convergence of market vendors’ strategies and neoliberal ideology in highland Bolivia. Gordon writes, “Vendors, because they rely on their own resources and face competition in the marketplace, must be entrepreneurial and competitive” (2011: 37). Her point is that indigenous people in developing countries often adopt strategies that seem to confirm liberal assumptions about human nature. And yet, if we situate these people’s economic behavior within the historical and ethnographic context, we find layers of interplay among social structures, cultural meanings, and

market realities that influence the kind of work that people do and the strategies they adopt to make ends meet. From the perspective of many Tecpanecos, as Pedro's comments illustrate, moral failures go hand-in-hand with market competition, which both inspires envious stares and unethical behavior, and heats up precisely because of such behavior. Many apparel producers view competition as a vicious cycle in which people must protect themselves – not only their market position, but also their personal well-being and moral integrity – from the dangerous forms of individualism and envy that are part and parcel of the social field that market participation so often elaborates.

Development and Its Imposters

Apparel producers are not the only copycats in Guatemala. That the post-war nation-state is copying other countries and, to some extent, following orders in forging a path to development is not lost on Maya people in Tecpán. Although implicated in the drive toward capitalist industrialization, some apparel producers are nonetheless critical of the future directions that Guatemala has set out for itself based on foreign models, anxious perhaps about the “authenticity of the copy” (Ferguson 2006: 16), but also concerned about what have so far been the outcomes of international development approaches. Highland Guatemalans have an especially fraught relationship to images of development and modernity that they see as originating in the US, not least because of the long and bloody conflict that many of them blame on American interventionism and business interests.

One producer talked with me at length about the problem of copying US development models. Mario Güitz ended his engineering studies at the public university after only one year when his father died suddenly of a heart attack in the early 1990s. He now operates a medium-sized workshop in the center of town. On a morning drive to Guatemala City to sell men's sweaters in the wholesale markets, Mario began to complain about the *copiones*. As soon as a new design hits the market, he lamented, they copy it and push the price down. "They are too much like the Americans and the Chinese," he said, and then launched into a critique of the cheap, plastic goods that have flooded into Guatemala in recent years: plastic kitchenware made in China and sold in retail chains owned by Walmart, plastic toys made in China and given out to children in McDonald's Happy Meals. "It's all *chafa*," he said, a slang term that literally means cheap, poorly made stuff, but which also implies that the stuff is a badly-rendered copy of an original. Among youth in the capital city, the term is used to mean knock-offs. Mario contrasted *chafa* with the artisanal goods that filled the homes of his parents and grandparents: clay pots, metal cookware, cotton textiles. He commented, "We think that if we use plastic, we'll be modern like the *estadounidenses*." Mario and I had made this trip to Guatemala City several times and spent a great deal of time talking in his workshop. I knew that he liked to take jabs at the US in order to see my reaction. But as a budding environmentalist – he had told me that if he could change careers, he would work for an NGO to promote conservation programs and environmental awareness in Maya communities – he was also expressing genuine concern that these new, disposable goods would end up as pollutants. "Why do we want to be like the

Americans? You end up with a lot of *chafa*. It's no good. I heard a few days ago that the plastic toys from China are dangerous," he notes, referring to news reports that had surfaced that month about another case of high toxin levels in Chinese-made children's products. "It's the same with the *copiones*," he continued. "They think that the more *chafa* they produce, the more money they will make. But in the long run, it's bad for everyone."

Talk about *copiones*, which at times seems a property-based position, is here a critique of industrialized hyper-capitalism, the throw away culture of forced obsolescence, and the kind of cut-throat competition induced by international trade and taken for granted in IPR protections. It is a critique of the commodity form, pure *chafa*, which has no pride or craftsmanship invested in its creation or production, and thus also implicates a class of producers who are said to be unskilled and unprofessional in their work.³⁰ Finally, it is wrapped up with critical sensibilities regarding the state's misadventures in copying American-style development models.

During another visit to Mario's workshop, he told me about Taiwan. As one of the top exporters to Guatemala, along with China and Mexico, Taiwan often came up in conversations with garment producers about rising competition. In this case, however,

³⁰ The idea implicit in Mario's use of the term "chafa" is that the products made by people whose work is based on imitation rather than creativity are useless and disposable. Mario's argument brings to mind Theodore Adorno and Max Horkheimer's concept of the "culture industry" (1997), which, briefly stated, charges that capitalism creates its own consumer demand, defines popular needs in terms of capitalism's drive for profit, and discourages creative investment in "high" art or even skilled forms of production. Mario's statement also disavows his and all other local garment producers' participation, however, in practices of copying and imitation, at least at some level, and participates in a cultural pattern of localizing blame onto those who occupy the bottom rungs of the economic order – in this case, producers who lack the capital, skills, or education to manufacture higher quality goods or successfully market designs that others will consider innovative.

Mario was holding up Taiwan as a case study in development policy. He ushered me into the *sala* of the home he shares with his widowed mother, his wife, and their two young children. It is typical of Tecpán's living rooms, with an old couch and a small table bearing a vase of flowers and a few candles, all situated beneath a giant portrait of the Virgin of Guadalupe. There is also a computer Mario bought second-hand from an internet café in town, which he uses for email, surfing the internet, and maintaining the workshop's accounting on Excel spreadsheets. And on top of a tall armoire across from the computer desk sits a TV set and a VCR. He reaches up to pop a video tape into the player and explains that he came across this tape while visiting the office of the local cable television provider. It is about agriculture in Taiwan, he says.

The Taiwanese do things the right way. You'll see in the video. Taiwan is a lot like Guatemala. It's green and very fertile. They have good soil and a good climate for growing a variety of crops, just like here. But in Taiwan, the government started a program to first help the people grow their own food and sell their own crops for the national market. They, they looked for ways to export. The people have work and can supply everything they need for themselves. They took advantage of the specific characteristics of their country. Taiwan is just a small island, but they grow things that are not found in other countries, just like Guatemala.

We're a small country, but we have so many natural resources that are wasted. The food we grow here is not even eaten by our own people. It's sold to other countries. Even the food that is grown for export is not always sold because it is not good enough for foreigners. So, at the end of the day [*al final de cuentas*], no

one is making money and the people stay poor, all because our government doesn't know how to do things the right way.

The video has started playing. Shiny fruits and waxy vegetables pass across the screen accompanied by traditional lute and zither music. There are shots of Taiwanese farmers harvesting ripe fruit in lush fields and panoramic vistas highlighting the island's special landscape. These images are overlaid with a voice track (subtitled in Spanish) describing Taiwan's rich agricultural diversity, with an emphasis on farm-to-market timetables, high-tech breeding practices, and quality control. A highly-produced and stylized publicity video for Taiwan's export program, the tape also provides just enough emphasis on the importance of native foods to local culture to give the viewer a sense of the exotic elegance of the place and its people.

I am thrown a bit by the contrast between Mario's interpretation of the film and my own experience of it. The video's narrative says little about the government and even less about programs that prioritize national market access to fresh produce. It seems to me a polished marketing tool that encourages the very export-led development strategies that Guatemala has followed in recent decades, policies that have brought Taiwanese and Guatemalan clothing manufacturers (and vegetable farmers) into direct competition with one another. What Mario sees in the images of smiling, healthy Taiwanese farmers amidst rich landscapes of productive fields, however, is an alternative. The images signal the possibility of a development program that might make such lush fields and contented farmers possible, a program that might value Guatemala's natural and human features over and above the profits reaped by a

few intermediaries through international trade. When the video finishes, Mario looks at me and says, “If we could imitate what Taiwan did, we would have a strong economic base and the people would be working. We would have something to build on for the future.” Contrast his enthusiasm for Taiwan’s produce industry with his disdain for the kind of careless consumerism that he perceives as originating in the US. “If it comes from the US, then we want it, too,” he had noted at the conclusion of our conversation about *chafa*. “We haven’t learned. It doesn’t make sense for us to copy what the Americans are doing. We should be looking for our own way, what is better for us.”

Mario is not so much concerned that Guatemala is imitating development models from other places, but that it is imitating the wrong ones, just like the *copiones* who imitate local products rather than “the good stuff,” as discussed earlier in this chapter. Many apparel producers shared his sense that Guatemala is inundated with *chafa*, useless things, worn-out things, the leftovers of other places. They frequently complained that it was impossible to compete against foreign manufacturers when the machinery available in Guatemala is worn out and out-dated. While explaining to me the various knit patterns – *calado*, *tricot*, *intercalado*, *multicolor* – that his machinery can produce, one sweater manufacturer picked up a yellowed operating manual for a knitting machine to show me some illustrations. He then asked me if I could read the manual to him. It was in German. He said that he and his family members look at the pictures of the designs and the corresponding diagrams illustrating the needle movements and have, in this way, figured out many of the patterns by trial and error. He shows me another handbook of knitting patterns, this one in English, and just as

indecipherable to him. This book, he explains, came with some used machinery that he purchased in the mid-1980s that is now so out-dated that he can't find replacement parts. The Japanese factory that manufactured that line closed in the early 1990s, and, indeed, there are dozens of these same machines in various states of disrepair around Tecpán, many of them with a "*se vende*" (for sale) sign taped to them in case another manufacturer is interested. This producer adds that it is not much better with the newer machines because they arrive second- or third-hand from European and US factories. "Everything that arrives in Guatemala is *muy atrasado*," he laments. Everything is backwards and out-of-date.

The anthropologist James Ferguson quotes a Zambian mineworker who expressed similar frustrations with his surroundings: "This place is not up to date!" (2006: 185). There is a key tension in "developing" nations like Zambia and Guatemala with regard to the promises of modernity and the lived realities of economic development programs and capitalist production. Many apparel producers express dissatisfaction with regard to Guatemala's place in the world system, and their own particular positions within a globalized industry. Operating at the margins of industrial production and fashion design, outside of the mainstream commodity chains that move materials and machinery, and far away from the concentrated consumer surpluses that allow the international fashion industry to thrive, Maya manufacturers often must grasp and grapple for *chafa*, the leftovers of the "real" economy and "real" development (cf. Ferguson 2006, Chapter 2). Yet, they are equally dissatisfied with models of progress and development that continue to insist on international trade agreements and formal

market participation as the answer to the inequalities and lack that they see around them. The idea that market-based competition and exclusive forms of ownership are the key drivers of economic growth (Maskus 2000) does not fit with either the normative schema expressed by apparel manufacturers in Tecpán or the ethnographic evidence.

Maya producers nonetheless participate in moralizing discourses that localize blame for difficult market conditions. The “geography of blame” (Farmer 1992) in Tecpán’s apparel trade traces the “articulation of different layers in a multilayered system” (Smith 1984: 194), from the discourses that circulate in national media reports on piracy to indigenous people’s suspicions about state power and jurisprudence to the social embedding of senses of moral worth and accountability in a changing industry. The tendency among many of Tecpán manufacturers to blame development failures and intense competition on envy intersects with international framings that posit “underdevelopment” as a result of character flaws revealed in the backwardness and ineptitude of a national or sub-national ethnic population, a framing that is often interpolated by citizens of “underdeveloped” nations (Gupta 1998). As with Mario’s commentary on *chafa* and the unprofessional manufacturers who produce it, talk about envy on the one hand and respect for obligations to kin and neighbors on the other emphasizes issues of moral behavior rather than structural conditions including international trade and legal frameworks that confound all kinds of development efforts. And, as the next chapter highlights, these structural arrangements have begun to engender new expectations of legality and legitimacy in a place where accusations

and suspicions of illegitimacy so often orient people's relationships to each other, to the state, and to the wider world.

Chapter Four: Piracy and the Politics of Branding

While the use and regulation of trademarks to designate a product's source began in the seventeenth-century European guild system, the origins of modern trademark law are found in the mid-nineteenth century (Schechter 1927). With the rise of mass markets and the expansion of corporate influence over consumption habits as well as public policy, the United States and Great Britain were the first to institutionalize trademark protections in their current form. The trademark was intended to serve as an index of the product's provenance, giving producers a way to set themselves apart within the marketplace, guaranteeing the origin and a standard of quality to consumers, and helping buyers to differentiate among mass-produced commodities. By the 1920s, trademarks had undergone a significant transformation. No longer simply a stand-in for the producer's quality guarantee, the mark itself had become endowed with social and economic value. This shift was inevitable, notes Constantine Nakassis (n.d.), because the very reason for protecting trademarks was that consumers had no face-to-face connection with producers. It was always implicit in trademark law that the material sign would generate an immaterial value – a reputation or goodwill among consumers (Bone 2006).

These are the basic conditions for the emergence of the brand form. Today, brands are ubiquitous and amorphous. The term has been used traditionally to connote all of the social meanings associated with a product, its trademarks, package design, and marketing and promotion, including a host of ephemeral qualities that have to do with

“brand image” and status (Nakassis n.d.). As advertising executive David Ogilvy put it in 1955, the brand is the “intangible sum of a product’s attributes, its name, packaging, and price, its history, reputation, and the way it is advertised” (cited in Wang 2008: 23-24). These ways of thinking about brands assume a material commodity to which the brand refers; yet, as Paul Manning notes, brands today have left behind the “dull, passive, generic, inert utility and materiality of the product entirely” (2010: 36). Brands have “dematerialized,” he claims, and the range of “products” that can be branded now extends beyond material commodities to encompass “experiences, selves, nations, political programs, and revolutions” (Manning 2010: 34).³¹ Brands are better understood as bundles of affect, experience, practices, and associations that may or may not find be grounded in their linkage with a tangible product, such that “the sign increasingly replaces the product itself as the site of fetishism” (Coombe 1993: 421).

Corporations work to construct, direct, feed, and control their brands, but branding – that is, the production of these affects and associations – depends a great deal on the work of consumers (Foster 2007). Since the 1980s, marketing professionals have attempted to place brands at the center of modern social life. Event sponsorships and co-marketing programs, the incorporation of new media forms into branding efforts, “lifestyle” advertising, and the turn to grassroots and “integrative marketing” that depend on consumers to spread the word about product experiences and brand associations, all of these corporate strategies promote the brand as something more than a signifier (Carducci 2003). “Brands want to have relationships, to allay your

³¹ See also Moore 2003; Lury 2004; Arvidsson 2006; Hearn 2008; Jansen 2008; Manning 2009; Graan n.d.

consumer cynicism, to be the bedrock and context of your community and even make love with you” (Nakassis n.d.).³² The “consumptive labor” (Foster 2005) or “affective labor” (Hardt 1999) that produces the social meaning surrounding brands is central to marketing efforts and constitutive of the contemporary brand form.

This back-and-forth between corporations and consumers (or, more broadly, brand owners and brand participants) necessarily entails some slippage in the meanings and associations that build up. Indeed, the gap between the control exercised over trademarked brands by their owners and the unpredictability of brands making their way through the social world, being redirected and picked up and reproduced by ordinary people who come into contact with a more or less consolidated “image” being promoted by the owner, is a site of extraordinary productive potential. The value of immaterial labor for the corporation ends at the threshold of deviant appropriation, where piracy, counterfeiting, and other sorts of improper brand behavior begin (Nakassis n.d.).³³ Control over brands, the work of delimiting proper and improper consumptive work, is most powerfully and forcefully exercised through the language and institutional apparatus of trademark law. For all its immateriality, then, brands are treated by corporations and others with something at stake in their constitution and meaning as something that ultimately congeals around particular signs (Beebe 2004). This chapter explores how brands get picked up and appropriated in Guatemala, examining practices of piracy among Tecpaneco garment producers who are also

³² See Fournier 1998; Holt 2003; Muniz and O’Guinn 2001; and Foster 2005, 2007 for specific examples.

³³ At least, this is the claim made by corporations seeking to protect their trademarked brands from unauthorized appropriations. As discussed in Chapter 1, however, some business scholars argue that piracy and counterfeiting actually benefit trademark owners.

necessarily consumers of global brands. I find that their relationships to trademarks, that is, the legal entity that consolidates the brand form, is shaped by a local context in which brands, products, and consumption take on special meanings in terms of class and ethnic affiliations and by an international context in which fashion firms struggle to consolidate control over trademarked brands in novel ways, with sometimes paradoxical effects.

Original Gaps

Anthropologists have recently examined the sociocultural context within which the consumption of pirated goods becomes ordinary practice. One important finding is that, for consumers, what counts as authentic or original is often ambiguous or significantly different from the definitions offered in IPR frameworks. Elizabeth Vann's (2006) study of consumer markets in Ho Chi Minh City offers a prime example. Rather than distinguishing "real" goods from "fake" goods in the way that trademark law differentiates authorized and illegitimate copies, Vietnamese shoppers talk about "model goods," which, in turn, provide a sort of template for "mimic goods."

Shoppers in HCMC do not imagine the consumer market—which they experience in the form of thousands of local shops, street vendors, and markets—as being made up primarily of "authentic" goods interspersed occasionally with "counterfeits." Mimic goods are a part of everyday shopping in Vietnam. ... And they consider the proliferation of goods that "mimic" world famous products an inevitable and quintessentially capitalist process. Product mimicking, they say, is

a logical and necessary outcome of a competitive and hierarchical market in which a few companies and products serve as models for others. (Vann 2006: 290)

Mimic goods, which generally feature trademarked brand names, are judged on how well they conform to the models set forth by more expensive, higher quality goods. They only become a problem when they are misrepresented as models. For instance, if a vendor charges a higher price than a mimic good should command, it may mislead some consumers into thinking that the product is also of higher quality than it really is. But the simple fact of a popular logo appearing on the good does not determine whether it is a “model” or a “mimic” in any kind of mechanistic way.

Another important distinction described by Vann is between mimic goods and “fakes.” Rather than equate the latter term with an unauthorized reproduction of a genuine product, however, Vietnamese consumers call goods “fake” when they are “essentially nongoods that are useless to the people who buy them,” as with a “shampoo bottle filled with used cooking oil” (2006: 293). Fake goods are deceptive, not because they deceitfully purport to come from authorized sources. Rather, they are something altogether different from what they represent themselves to be and are intended to mislead the consumer into purchasing something that will, in the end, be completely useless in practical as well as cultural (i.e., status) terms.

Maya garment manufacturers in highland Guatemala readily acknowledge that the garments they make are *imitaciones* (imitations), not *originales* (originals). As noted in Chapter 1, consumers in highland Guatemala also know that the clothing they buy on

city streets and informal markets is different than what wealthy Guatemalans buy in expensive boutiques and shopping malls. The difference between formal legal understandings of what it means for something to be an authorized original and the local evaluative scheme common to the Guatemalan highlands was made particularly clear on a trip I made with Victor Xuya.

I met Victor at a birthday celebration for his young godson. He later invited me to the saint's day celebration hosted by him and other members of the *cofradía* of San Antonio. I was soon making regular visits to his garment workshop, where his teenage son and six other young men worked amidst the clutter of fabric scraps and second-hand machinery. I also traveled with Victor to municipal markets in highland towns and street markets in Guatemala City to sell the sweaters and sweatshirts he produced. On one occasion, we rode the bus a half-hour to Chimaltenango, the capital of the department in which Tecpán is located. We delivered several bundles of clothing to his regular customers, market vendors who set up and take down their temporary wooden stalls each market day. We then set out to visit Chimaltenango's retail stores and modern commercial center to scope out new design ideas. Stores with names like La Nueva Moda (The New Fashion) and El Estreno (Debut) that line a main street through town seem a bit ironic since these shops, like the informal market stalls where Victor sells, also deal in pirated brands. The clothes are made in highland workshops or purchased from wholesalers in Guatemala City who distribute Chinese imports. A spatialized hierarchy means that these fixed retail locations sell youth styles of slightly

higher quality at higher prices than what one finds in the market, which caters to lower socioeconomic classes.

Our next stop was La Pradera, a mall built in 2006 with plenty of parking, a fried-chicken restaurant, Taco Bell, Maxi Bodega discount department store, and Bullock's, a national retailer with sixty stores selling clothing priced just above what is sold in municipal markets and smaller clothing shops. Victor tells me with an air of pride that he sometimes buys clothing there for his two younger children. Many of the sweatshirt and t-shirt styles feature logos that read Arthur & Campie, Holistar, and Hollinger, obvious imitations of the popular global brands Abercrombie & Fitch and Hollister. Taking advantage of variable judicial interpretations of the "likelihood of confusion" test in international trademark law, slightly altering a brand name is a common strategy used by brand pirates worldwide to avert successful prosecution for trademark infringement (Marroletti 1999). Bullock's also sells clothing under the Basic Editions label, a discount line available in Sears and Kmart stores in the US. These garments are made in maquiladoras in Guatemala and Honduras and likely were destined for export at one point. But overruns and imperfect items often find their way out of the maquiladoras and into retail stores and street markets in Central America.

At the other end of the mall, we stopped in front of a store that I immediately recognized. The sign hanging above the doorway featured the dark blue square and slim Arial lettering of the ubiquitous US clothing chain, Gap. A second look revealed that the sign actually read "GAP^{PS}," as if this iteration of the store were a postscript to the American version. Victor was hesitant to enter the store, stressing to me that the

clothing was very expensive, but perhaps also concerned about not being welcomed there, since long-standing structures of discrimination discourage Maya men and women from entering spaces that are seen to belong more appropriately to well-to-do, non-indigenous Guatemalans (Nelson 1999: 249-250). The merchandise was indeed expensive: jeans priced at Q299 (about \$35) as compared to Q49 (\$7) at Bullock's. The styles were similar to what one might expect to find at a Gap store in the US, the quality of the fabric and the stitching was relatively high, and the Gap logo appeared on all the merchandise. But Gap does not have stores in Guatemala or any other Latin American country. When we left the store, I could not resist pointing this out to Victor. "It's not real," I said. "That store is an imitation of the real Gap stores in the US." Victor was unfazed. "Those clothes are originals," he remarked. "Didn't you see how expensive they were?"

Local understandings of what makes a garment original disclose a disjuncture, a gap, between international legal frameworks and how Maya people in Guatemala experience the apparel marketplace and brand environment. Yi-Chieh Jessica Lin notes that counterfeiting in China "represents and reinforces the popularity of mainstream culture and class identity" and the "worship" of the "original source" (2009: 98). In highland Guatemala, the complex relationship between "originals" and "imitations" does not reveal the same kind of fetishization of originality or authenticity. In the local context, the term imitation indicates that the garment is a copy, a more or less faithful reproduction of an original, and implies inferiority in terms of quality and desirability. But the term original does not reference an authorized and formal relationship to a

fashion firm. Rather, originality is an index of the garment's exclusivity, meaning the garment's position in the marketplace as a function of the context in which it is sold – its price, quality, and spatial location in relation to other goods – and thus who can and cannot consume it.

Spatial imaginaries, class structures, and institutionalized practices of discrimination in Guatemala have historically linked urban space, non-indigenous *Ladinos*, and “modernity” on the one hand and rural space, indigenous people, and “tradition” on the other (Thomas 2009: 8; see also Fischer and Brown 1996: 10-11), exemplified in the case of a Maya woman who was denied entry to a Guatemala City restaurant in 2002 for wearing traditional clothing.³⁴ In sum, merchandise sold in urban retail shops and commercial centers is considered more original, more prestigious, and perhaps more fashionable than what most Maya men and women buy in informal highland markets because the politics of difference in Guatemala makes those spaces more difficult to traverse and makes authorized goods too expensive for most Maya people to afford. Boundaries that determine who can and cannot consume original fashion at the national level mirror global divides that structure access to fashion brands. As anthropologists and critical legal scholars note, IPR law consolidates the international division of labor that positions Northern countries as innovators, owners, and authorized consumers, while saddling Southern countries with the burden of protecting rights-holders from piracy and counterfeiting (Correa 2000: 5; Coombe 2003).

³⁴ This type of discrimination is common and only came to national attention because this particular Maya woman – Irma Alicia Velásquez Nimatuj, who holds a doctoral degree in anthropology from the University of Texas – filed formal charges against the establishment, publicized the case in the national media, and inspired international outcry against such institutionalized forms of discrimination (IIDH 2006).

Trademark law participates in the production of what Michael Herzfeld calls the “global hierarchy of value,” a system of ethics and aesthetics that, although “a more subtle kind of globalization than that of company logos and fast food,” comes to pervade local common sense in places like highland Guatemala. A defining feature of the global hierarchy of value is the way that “certain places, ideas, and cultural groups appear as marginal to the grand design. ... [T]he more they protest its domination, the more they seem to confirm their own marginality” (Herzfeld 2004: 4). The gap between official frameworks and diverse local forms of moral and legal understanding is usually taken by legal and business scholars as an opportunity for educating local populations who are thought to be ignorant of the law, backwards, and uneducated. Such approaches ignore the ways that local understandings of what brands mean and local practices of appropriation are already shaped by international IPR regimes and the global market system. Brand names occupy a hegemonic place in the global hierarchy of value. The world system premised on IPR protections is productive of piracy insofar as Maya people are structurally disadvantaged by neoliberal reforms but also implicated in the circulation of globally-popular styles and the meanings associated with them. Even so, in the Guatemalan highlands, the market value and cultural capital attached to fashion brands is read not through the lens of Western property rights that guarantee corporations monopoly ownership over particular words and images. The positive valuation of authorized goods and goods that closely approximate them – both captured by the term original – is understood as a function of more socially-relevant gaps of class

and ethnicity and spatial divides that designate who is authorized to enter formal spaces and who is not.

The Look of Piracy

Each time before we left Martín Cua's garment workshop to sell his goods in highland markets, the ritual was the same. Martín, who is in his late thirties, operates a workshop housed on the second floor of a building owned by his uncle, who runs a *tienda* on the first floor and his own garment workshop in his home next door. Martín sells mostly to wholesalers in San Francisco El Alto. Before loading the garments into his beat-up Toyota sedan each Wednesday and Thursday, he would carefully inspect the stacks of folded sweatshirts that had been individually packaged in clear plastic bags, bundled by the dozen, and tied with a strip of fabric. This way of preparing the garments for market is ubiquitous and considered essential to what manufacturers in Tecpán call *presentación*, the way the garments will look to the market vendors and wholesalers who are Martín's clients, and ultimately, to consumers. *Presentación* also entails the inclusion of a label sewn into the collar of a shirt or the waistband of pants. These labels generally feature trademarked brands of multinational fashion companies, although there is often little regard for which brand name is used. Sometimes, producers source labels from print or embroidery shops. Other times, labels and even tags have been smuggled out of maquiladoras. Here, piracy enters the picture as a grey market trade. Whereas IPR law frames piracy as willful deception and bad faith (Green and Smith 2002), the use of labels is part of the cultural practice of *presentación*, a local business

ethic where the formal and professional presentation of goods is also about the self-presentation of the producer as a moral person who cares about his work.

The use of pirated labels, though technically illegal, is also strategic because of the intense global competition that producers like Martín face from several angles. There are the overruns and imperfect garments coming out of the maquiladoras, imports from Mexico, China, and Taiwan, which often feature pirated brands, and also the glut of name-brand, second-hand clothing from the US that ends up in Guatemala.³⁵ In this environment, it is difficult to sell a garment without a label, and, more specifically, a label that affords some competitive advantage in a marketplace dominated by global brand names. It is a political economy that poses a serious problem for an IPR framework that essentially asks poor people in the developing world to privilege the property of foreign companies over their own need to make a living.

In addition to labels and tags, most garments made in Tecpán include a pirated logo. Garment manufacturers in Tecpán do not see trademarked logos the way that IPR law does, as signatures of authenticity or corporate ownership. They view brand names and logos as design elements, similar to a stripe or color combination. Brand names are not add-ons, but are integral to the constitution of a particular look. This is an important

³⁵ In spite of these authentic labels and logos, the status of second-hand clothing as original is contentious since many Maya people say that used clothing is dirty, perhaps even dangerous because it could be a vector for infectious diseases. In interviews, I found that some Maya residents of Tecpán have similar concerns about donated food items that arrive from the US via non-governmental organizations. These worries are understandable given a long history of often violent US interventions in the region, and especially in light of recent revelations regarding research studies conducted by the US Public Health Service in the 1940s in which Guatemalan prisoners and mental health patients were intentionally infected with sexually-transmitted diseases (Reverby 2011).

distinction and poses a fundamental challenge to the formulation of international trademark law.

Maya garment producers use the Kaqchikel word *ruwäch*, a polysemous term that here means “the look” of the garment, to talk about design.³⁶ This term is also used in Mayan weaving. For instance, the word *ruwäch* refers to each design element in a *huipil*. The zig-zag and diamond designs and the stripes in the warp of a traditional *huipil* from Tecpán would each be referred to as *ruwäch*. The term also refers to how each of these elements combines to make the overall design. As noted in Chapter 3, Carol Hendrickson (1995) writes about the processes of borrowing and appropriation that characterize traditional weaving. For example, a weaver may be well-known for novel color combinations or using cross-stitch instead of satin-stitch embroidery for flowers around the necks of *huipiles* she makes. Other weavers might take one element of her improvisation and incorporate it into their own designs. What is carried over from traditional weaving to garment manufacturing is a sense of design practice as a work of combination and innovation, as well as the conceptual interdependence of the part (a particular design element) and the whole (the overall garment design). Both are captured in a single term, *ruwäch*, which indexes linguistically what cannot be separated practically.

One of Martín’s staple products during my field work was a hooded sweatshirt cut from fleece material, featuring a zipper, pockets, and the word Hollister (an

³⁶ The term *ruwäch* translates literally as “her or his face,” but is commonly used to refer to both the front side of a textile (or other object) and its appearance. Although the term *etz’abäl* translates literally as adornment and is also used among weavers and garment manufacturers to refer to design elements, *ruwäch* is used colloquially in Tecpán. For example, it is common for weavers and garment producers to ask, “*Achike ruwäch?*” meaning “What is the textile’s design?” or “What will the garment look like?”

American brand name) spelled out across the chest in felt letters sewn on with an embroidery machine. When I asked Martín why he used the brand name Hollister on these garments, he replied, "*Lleva menos letras que Abercrombie* [It has fewer letters than Abercrombie]." At a basic level, pirated logos are used by garment manufacturers in Tecpán because consumers, and producers, want to participate in a cosmopolitan trade and they are buying and selling in a transnational marketplace. When producers decide which logo to include, however, there are many considerations, such as current trends, the difficulty involved in replicating a given logo, and the cost of materials. If a brand name has fewer letters, for instance, it means lower costs for the manufacturer.

In my analysis, however, the most important factor is the need to conform to a recognizable style. For Martín, it was either Abercrombie or Hollister because those are the companies that took the generic hooded sweatshirt, made it baroque and graphic, and popularized that look among young people worldwide. If he were making polo shirts, he would use a Ralph Lauren pony, because that company made the polo shirt embossed with an animal figure popular. IPR law protects trademarks, but what fashion companies actually sell is design, a combinatory "look and feel" (Bharathi 1996: 1668). In contemporary, globalized youth fashion, the trademarked logo is a part, a necessary part, of the construction of stylish designs that have recognizable currency.

There is a great deal of contestation in IP law about the relationship between trademarked logos and fashion design (Hemphill and Suk 2009). Western governments have been reluctant to legally protect fashion works in the way that industrial designs

and artistic creations are protected.³⁷ Clothing has historically been treated as a “useful article” rather than an artistic one in US law, for instance, making it difficult to apply patent or copyright protections (Raustiala and Sprigman 2006). It is clear that Ralph Lauren owns the trademarked polo pony logo, but who owns the polo-style shirt? Who owns the particular stripe design or color combination that Ralph Lauren puts together for a particular polo shirt? The fashion industry is an ideal case for looking at a central problem in IPR debates: the question of whether an innovator owns the part or the whole if her innovation obviously builds on preexisting work, design, and materials (Dutfield 2003).

Louis Vuitton, the French accessory maker, was the first to make the logo a fashion focus. In the late nineteenth century, the company explicitly incorporated the LV logo into the design of its leather goods to make counterfeiting more difficult (Carvajal 2006). In the 1980s, as design piracy began to escalate largely due to the global integration of markets, firms like Tommy Hilfiger and Ralph Lauren followed suit by making their trademarked logos much more prominent features of their apparel designs. The small pony embroidered on the left breast of a polo shirt has transformed, in many Ralph Lauren designs, into a large horse emblazoned across the entire left side of the garment. This transformation is no accident, nor is it purely aesthetic. If the polo shirt features a small figure, then the style might be copied in a way that evades the law.

³⁷ Western European nations have extended limited IP protections to fashion design, and the European Union recently harmonized these protections (Scafidi 2006: 126). Still, fashion companies rarely pursue litigation against copiers. This suggests to some legal scholars that a “low-IP” environment is, in fact, ideal for fashion since rapid and widespread availability of a particular design across market segments encourages the kind of forced obsolescence that, at least in part, drives fashion consumption (Raustiala and Sprigman 2006).

Using a different animal, for instance, does not infringe upon the trademark and yet permits the replication of the garment style. When companies integrate their logos into the overall design in these more pronounced ways, however, the trademarked logo is, in effect, the style. Pirates cannot copy the style without also pilfering the logo, which extends the fashion company's authorship and ownership to include the design (Scafidi 2006). Fashion firms have argued, with some success, that the logo becomes part of the garment's "trade dress," a legal category within trademark law that companies have been pushing to expand in order to protect not just the brand form but also the product's overall appearance, using the argument that the product itself is "arbitrary" and "aesthetic," not merely functional (Dinwoodie 1997; Bharathi 1996). This movement in the fashion world is not only impelled by the legal framing of trademark protections, but also by "modernist aesthetic ideologies among designers, who seek to blur those same boundaries between form and function" (Manning 2010: 41-42).

The integration of branding and design strengthens the force of trademark protections. It also, paradoxically, encourages trademark piracy when what producers in marginalized settings like Tecpán are trying to replicate is *ruwäch*, the globally-marketed fashion design. IPR law thus reflects a misunderstanding of what is happening in places like Tecpán. When people in out-of-the-way places participate in "piracy," stitching Hollister across a sweatshirt, they are not simply attempting to capture, steal, or pilfer the value of a trademarked logo. When consumers purchase that sweatshirt, they do not buy it just because it says Hollister. What is being bought and sold in

informal markets are more holistically-conceived styles, what the Maya call “a look,” which is to say, fashion.

Indigenous Brands

Alongside increasing levels of foreign competition and the reclassification of the local apparel trade as criminal, a new set of marketing strategies is emerging in Tecpán.

A few younger garment manufacturers have recently developed their own unique brands based on Kaqchikel terms like *b’alam* [jaguar] and *kem* [woven textile].

Bernardo, a twenty-five-year-old Maya man, is looking to launch a new brand of youth styles called *Saqkar*, which means white fish in Kaqchikel. He is also considering the name *Xarkar*, meaning blue fish, because its pronunciation reminds him of the English word “shark,” and he wants to use a shark for the logo. Bernardo developed the logo, tagline, a marketing plan, a financial profile, organizational flow charts for production and management, and design samples, all for a business course he was taking at a university in Guatemala City. His father started in the garment business before the armed conflict and has done just well enough to help Bernardo attend weekend and evening courses, when he is not needed at the family workshop.

Bernardo wants to do business under a brand name that highlights his Kaqchikel identity. He is active in a local political party called *Qawinäq*, “our people” in Kaqchikel, referring to indigenous *tecpanecos*. He identifies with an older generation of indigenous leaders who comprised the pan-Maya movement, a loose affiliation of activists and non-governmental organizations that helped to shape national policy toward indigenous

people in the aftermath of the armed conflict (Fischer 2001; Fischer and Brown 1996). Using Kaqchikel terms as brands is a political move for Bernardo, who sincerely hopes that his clothing line will help bolster a sense of pride and affiliation among Maya youth who wear it. It is also a strategic business decision. Bernardo's pursuits reflect the kind of multicultural politics and identity-based enterprise that John and Jean Comaroff describe in *Ethnicity, Inc* (2009). Difference, they show, is everywhere today being commodified by corporations and incorporated by ethnic groups. Bernardo commodifies Maya identity in order to capitalize on what differentiates his clothing line from imported garments and the clothing made by his neighbors.

As Marilyn Strathern and Eric Hirsch note, "ownership claims emerge within a world of owners." Their work in Melanesia illustrates the point. "Contemporary notions of ownership in Papua New Guinea are stimulated by ventures such as mining and logging, which bring new perceptions of assets and proprietorship over them, as does tourism, displays of tradition and perceptions of loss, for instance the kinds of know-how displaced by schooling" (2004: 3). Similar processes are taking place in Guatemala. Land and resource rights have lately become a hotly-contested, sometimes violently-contested, cultural issue, as Maya communities throughout the Western highlands and Northern lowlands stage oppositions to mining and biofuel interests attempting to set up or expand operations (Imai et al. 2007; Rights Action 2011a; Rights Action 2011b). Land and resource claims, but also claims to "heritage" and "culture" are increasingly posed in the language of ownership and property (Nelson 1999: 24) at the same time as expanding intellectual property protections have "released the notion of property from

its moorings in material objects” (Strathern and Hirsch 2004: 2-3). For example, pan-Mayan activists invoke the language of cultural property in opposition to the Guatemalan state’s commodification of indigenous dress and language for tourism promotions (Warren 1998) at the same time as indigenous people themselves objectify and promote Maya culture in the context of international tourism and activist politics. Although the discourse of cultural property objectifies indigenous identity and ways of life in accordance with the logics of Western property regimes (Winthrop 2002), scholars and indigenous activists alike tend to justify this approach in terms of strategic essentialism (Fischer 1999).

In a similar vein, and with a great deal of success, pan-Maya activists have encouraged indigenous people to use the term “Maya” rather than more local designations such as the name of their town or the particular Mayan language they speak as a source of self-identification (Fischer 2001: 247; Nelson 1999: 21). As the Comaroffs write, “ethnic incorporation rides on a process of homogenization and abstraction: *the* Zulu (or *the* Tswana or *the* San), for all their internal divisions, become one ... This may not undermine ethnic identification ... to the contrary, it may underline its importance as an object of *both* possibility and political struggle” (Comaroff and Comaroff 2009: 12). Performative labels such as “Maya” and “*pueblo indígena*” encourage a sense of belonging and common purpose, but also distill a remarkable panoply of cultural, historical, linguistic, and geographical diversity into a single signifier that presumably references some essential quality shared by all the people it claims to describe. Thus representing a unified constituency that includes over half of the

Guatemalan population, the term Maya serves as a kind of brand that indigenous activists can use to garner support from international agencies and promote a rights agenda on national and international levels.

Bernardo's attempt to capture indigeneity in the form of a brand builds on these foundations laid by the movement. Indeed, Bernardo is not the first to use markers of Maya identity to craft a brand. Apart from the use of Maya symbolism in the tourism industry, the Maya-owned and operated publishing company Cholsamaj and bookstores Nawal Wuj and Nuk'samaj in Guatemala City are just a few examples of enterprises that use terms from Mayan languages and Classic Maya hieroglyphs in their company names and logos. The proprietors of these businesses are affiliated with the pan-Maya movement, and their services – especially the dissemination of Mayan literature and information on Maya culture – are integral to the promotion of indigenous politics.

Here, I want to raise questions about the cultural and political implications of the kinds of ethno-branding that are part of cultural activism in Guatemala, and especially the private-label branding in which Bernardo is involved. My point is certainly not to fault pan-Maya activists for their use of Maya symbols and signs to rally a disparate indigenous population around common goals. It is certainly not to blame indigenous leaders for deploying a unified ethnic identity to political ends and attempting to congeal a social movement following decades (if not centuries) of suffering and oppression and during a peace process that held a great deal of hope for indigenous Guatemalans. I am critical, however, of the ways that claims about suffering and assertions of political rights are channeled into particularly limiting and limited forms in

the back-and-forth between indigenous peoples, nation-states, and the international community. I am also wary of the neoliberal economic programs that have privileged market forces over other modes of political or economic engagement, leaving indigenous people with little alternative than to pitch themselves as both marketable commodities and business-savvy entrepreneurs.

Rosemary Coombe (1996) contends that signs of social and cultural difference are transformed when used as trademarks. They are, in effect, taken out of the cultural commons (Brush 1999) and return to the public sphere as “jealously-guarded” signs of commercial distinction (Coombe 1996: 203). Bernardo told me in interviews that if someone else were to use his brand, it would be unethical and illegal. It would be *piratería* [piracy], he suggested, employing the politically-charged etic term rather than the more colloquial designations discussed in Chapter 3. Using a unique brand and formally incorporating his business are ways for him to avoid the threat of crackdowns that informal producers face, but also set him apart from them in terms of class, a formal relationship to the state, and a business model informed by the latest marketing research. When Bernardo organized a group of Tecpán’s garment manufacturers to attend informational meetings in Guatemala City on CAFTA in 2007, hoping to hear about export opportunities for domestic clothing producers, he invited only those who are also on a path to formal market participation. When they organized a production and marketing cooperative to vie for export contracts and secured a meeting with a US distributor, they were told their samples did not meet the requisite quality standards and were poked fun at for naming the cooperative “Koton” (the Kaqchikel term for

sweater, which was interpreted by the US businessmen as an ignorant misspelling of “cotton”). In response, Bernardo and others in the group complained among themselves and to me about the rampant informality and low degree of professionalism that they say characterize Tecpán’s apparel trade, blaming their fellow producers, and especially the ubiquitous “*copiones*,” for not having the knowledge and skills to manufacture an export-quality product. Among a certain class of educated, relatively well-to-do young men in Tecpán, registering their businesses and brands with the state, paying taxes, planning their work according to technical principles in manufacturing and marketing sciences, and not pirating, these are now viewed as both business strategies, part of what it means to be a businessman, and moral obligations, part of what it means to be a good citizen.

Manufacturers who do not have access to a university education have a particular vocabulary for talking about the informal training they receive in the course of participating in the apparel trade. I often heard producers say they were doing “*investigaciones*” or “*estudios*” in order to understand the market and make informed decisions about what products to offer and at what prices. Many contend that operating a workshop requires “*análisis*” of the competition and consumer tastes. This research and analysis involves watching what others are doing and taking careful note of trends, but also learning from your mistakes and finding out what works and what does not by trial and error. Manufacturers characterize their method of investigation as “empirical,” a term that highlights that they have gained an understanding of how things work based on experience. They specifically contrast empirical knowledge with academic forms of

learning based on theory and abstraction. “We do not have schools to learn how to make clothing,” said one manufacturer. “Maybe in Italy or Spain they have institutes just for learning about the textile industry. But, here, we do things *empiricamente*.” Talk about empirical knowledge sometimes serves as a defensive commentary on the perseverance and aptitude of indigenous people who have largely been denied access to formal educational institutions. With similarities to the artisanal context explored by Michael Herzfeld (2004) in Crete, academic instruction is also viewed by producers as a poor mode of preparation for the informal marketplace where most of them earn their livings and where interpersonal skills and reputation matter more than book learning.

In Bernardo’s university training, he learns Western economic concepts and business and marketing models that appear to him as more modern, technical and scientific, than the “empirical” knowledge that his fellow Tecpanecos claim based on experience. He even sees his own university education as a threat to the learn-by-doing model asserted by his father and other older garment producers. When Bernardo was developing his business plan, he kept his ideas a secret from family members until the entire project was complete, in part because he did not want to prematurely alarm his father and older brother, who have been the primary decision-makers for the business, about his plans to assert a leadership role for himself that runs counter to local norms privileging birth order, age, and experience. Bernardo said this about the presentation he finally made to his father and brothers: “For my dad, at least, it hit him hard. It was a lot for him – all that we needed to do, all of the changes. And what happens is that, since we’re not accustomed to this way of thinking, my dad says to me, ‘But how are we

going to do this?’ That’s the question.” In anticipation of his father’s uneasiness about the changes Bernardo was proposing – complete formalization and legal compliance; heavy investment in the development and marketing of a brand name; new roles for Bernardo, his older brother and younger brothers within the organization; the hiring and training of new employees – Bernardo had broken the plan into phases that he felt would be more easily digestible and had already secured a line of credit at one of the banks in town in his own name (a loan that depended as much on his ideas as on his wife’s steady work at a government office in Guatemala City). Though his plan met with less resistance than he had feared, Bernardo saw his ideas as directly contradicting the “way of thinking” that has defined his father’s approach to business.

At the same time, Bernardo is protective of “empirical” knowledge, finding new value in a form of “know-how” (Strathern and Hirsch 2004: 3) now threatened by his own formal schooling. During dinner with Bernardo and his wife one evening in Tecpán, he complained about the fact that many of his professors have no real-world experience. They teach theories and tell the students how to run a business, he protested, but have never owned or managed a firm themselves. He expressed resentment toward the upper-class *Ladino* men who claim to know how to do things better than, say, Bernardo’s father and other family members who have lived the day-to-day struggles of the apparel trade. There was a marked tension evident in his insistence that work has to be “*sistematizado*” (systematized) and his disdain for the forms of knowledge claimed by the university faculty. *Sistematización* is a key word in his courses and one that he often used in our conversations to describe the process of

organizing his family's workshop in accordance with the principles of rational management espoused in his textbooks. Over dinner, at least, he found resolution in stating that the theories become useful for him when he can test them empirically and tailor them to the specific context of practice in which he and his family work. Although Bernardo is far from claiming that "empirical" knowledge needs to be protected as a kind of cultural property, it is a meaningful heritage for him, one that he is careful not to discount or disparage outright. Talk about the value of empirical knowledge also provides him a discursive context for coming to terms with the spatial, class, and ethnic divides that privilege business theory and business professors over the learning that takes place in the workshop setting where he has spent most of his life.

Beyond his plans for launching an indigenous fashion brand, Bernardo told me that he wants a "technical" degree in business administration or finance to prepare him for a career in politics. He hopes his involvement with the local political party will lead to a municipal office, and, perhaps eventually, to a national appointment. Since the war ended, Bernardo explained, Maya people have filled an increasing number of government positions, but these posts are almost always in the Ministry of Culture, as if that is the only department where Mayas can do the job, as if "culture" is all that Maya people know and represent. Bernardo reckons that if Maya people are trained in "technical fields," they will be accepted in other departments, such as the Ministry of Finance, where they can have greater impact on national policy and serve as more than figure-heads for the multicultural nation-state. Because it is not that Maya people can't do those jobs, he explains, it is just that they don't know the proper terminology. You

have to know the language of finance, how to talk about budgets and currency and international trade, he figures, in order to be appointed to a serious government position. If business has become the privileged site and medium for generating and leveraging political power (Comaroff and Comaroff 2009: 50), Bernardo reasons that the best way into politics is to know business.

Bernardo's fetishization of the language of business and finance, his objectification of its terms and narratives as something he can utilize in order to advance his own career and achieve broader political goals fits squarely with the portrait of the "Maya-hacker" drawn by Diane Nelson. She writes, "*Ladino* identity is defined as modern in terms of technology and lifeways"; therefore, "any indigenous person who speaks Spanish, has earned an academic degree, or holds a desk job has historically been redefined as *Ladino*." In the context of the pan-Maya movement, however, many indigenous people moved into cultural and political spaces traditionally carved out for *Ladinos*, but refused to relinquish their indigenous identity. These people are what she calls Maya-hackers. "Like computer hackers, who do not control the systems they work in but intimately understand their technologies and codes, the Maya are appropriating so-called modern technologies and knowledges while refusing to be appropriated into the *Ladino* nation" (Nelson 1999: 249). Nelson's laudatory description of the older generation of pan-Maya activists applies equally well to Bernardo and his own activist pursuits. Yet, Bernardo's appropriation of the modern technology of the brand form raises questions about the true potential for hacker politics in contemporary Guatemala.

If knowledge and technology are the stuff of modern social movements, they are also the currency of modern capitalism. Bernardo's burgeoning commitment to intellectual property rights reveals a distinctive gap between his ideals and the political economy and hegemonic cultural forms that structure the "systems" in which he works. Is Bernardo hacking into the codes of finance and management, the "*Ladino*" realms of academia and urban space, and the mainframe of globalized intellectual property in order to disrupt or perhaps even revolutionize the system? Or is he caught up in a world wide web that promotes the commodification of culture and knowledge and a privatized model of capitalist enterprise as answers to the poverty and discrimination that Maya people in Guatemala continue to face? Is it possible for indigenous people to appropriate IPR to their own ends without also transforming indigeneity into something utterly non-indigenous – that is, a form of property that is decidedly Western and that might actually be threatening to an inclusive, democratic politics? Are those who pirate fashion brands not also Maya-hackers, re-routing the codes of modernity and the technologies of consumer capitalism in perhaps more radical ways than their law-abiding counterparts?

Bernardo's case allows for at least some consideration of the political implications of ethnic entrepreneurship and indigenous encounters with IPR. Rosemary Coombe argues that intellectual property law "may deprive us of the optimal cultural conditions for dialogic practice. By objectifying and reifying cultural forms – freezing the connotations of signs and symbols and fencing off fields of cultural meaning with 'no trespassing' signs – intellectual property laws may enable certain forms of political

practice and constrain others” (1991: 1853). Coombe is deeply concerned that although brands are one of the most ubiquitous and powerful symbol sets in (post)modern society, and although they hold enormous potential as bases for diverse kinds of social expression and democratic dialogue, the corporations that own brands can “monologically control meaning by evoking the concept of property” (1991: 1853). Bernardo’s Saqkar label may never become a definitive symbol of Kaqchikel or Guatemalan or indigenous identity. He will likely never exercise the level of semantic control over his fashion brand that a corporation like Gap or Nike does. Yet, his branding strategy reveals an emerging trend toward a more intimate, consumer politics of indigeneity.

Not everyone will have access to the meanings and practices of indigeneity if those meanings and practices are also branded commodities. “Culture, now,” write John and Jean Comaroff, “is also intellectual property, displaced from the ‘museum’ and the ‘anthropological’ gaze, no longer ‘naked’ nor available to just anyone pro bono” (2009: 3). If the symbols of ethnic affiliation are also trademarks, then culture comes with a price tag. It may be more or less accessible depending on one’s purchasing power, making it less likely for indigenous politics to reach across class divides. Moreover, what the Comaroffs (2009) term “ethno-marketing” and “ethno-preneurship” is not simply a convergence between the politics of identity and the marketing of difference. It is a new phase of ethnic politics, the collapsing of political agendas into market strategies and a claim by indigenous people to authority and authenticity mediated not by state recognitions or protections but by the free market. In large measure a response to the

failures of broad social movements and other more traditional, politically-based efforts to address conditions of poverty, inequality, or exclusion, indigenous peoples in all parts of the world have turned to capitalist enterprise as a vehicle of “empowerment” (Comaroff and Comaroff 2009: 15). This global movement is evidence of how much distance now stands between the kind of radical democratic politics asserted across much of Latin America in the early twentieth century (Grandin 2004) and a neoliberal mode of entrepreneurial politics (or political entrepreneurship) now embraced – sometimes begrudgingly, sometimes enthusiastically – by indigenous leaders who nonetheless have similar passions for and commitments to justice, fairness, and equality.

The Gender Gap

The emergent moral divide between formal and informal manufacturers in Tecpán traces a socioeconomic divide constituted in part by the early successes of producers like Bernardo’s father before the armed conflict intensified and prior to the implementation of structural adjustment programs that impelled more intense forms of local and international competition. The vast majority of Tecpán’s garment manufacturers will never have access to the university education that Bernardo is getting. There are also important gender dimensions. In business classes, Bernardo learns a particular diagram of masculinity premised upon participation in formalized national development programs as a means of resolving the country’s social and economic woes.

Garment manufacturing is already a gendered form of work. As I have noted, men are positioned as owners, managers, and salespeople. Young men operate the machines. Women are relegated to hand embroidery work, sewing on adornments, finishing seams, or packaging garments, work that is considered either more delicate or easier. Anna Tsing (1993) and others have documented the fact that the formalization of markets across the globe often fosters a widening of the gender gap. While Bernardo sees his push to formalize his business and develop Maya brands in the way that business and legal scholarship does, as a mode of economic development and “systematization,” the social construction of the Maya man as a formal business owner with ties to higher education and political leadership perpetuates gender divisions and inequalities that extend back to the colonial period.

In a pervasive cultural politics, the Maya woman and her traditional clothing are appropriated as a basis for Guatemalan nationalism. Naturalized as a static custom and treated as a form of cultural property, her clothing distinguishes Guatemala from other nations, and, figured as a remnant of the past, it provides the historic depth necessary for the construction of a national identity (Nelson 2001: 321). The *mujer maya*, dressed in traje, also serves as a “prosthetic” for the indigenous activists attempting to reconstruct a body politic “from the stumps and wounded body images left by conquest and civil war,” writes Diane Nelson. She continues, “Maya-hackers can be modern because Mayan women represent tradition.” Without such a figure to lean on, “they would just be *Ladinos*, without a valid claim for a separate cultural existence” (Nelson 1999: 274). Maya men’s relationships to the written word rather than the woven image,

to modern styles rather than traditional dress, to a branded ethnic identity rather than association with a traditional heritage, and, in Tecpán, their position as owners of garment workshops rather than manual workers, mean that business ventures mediate the changing relationship of men to the state and civil society in ways that are largely unavailable to Maya women. At the same time, their ethnic identity – and perhaps more importantly, the economic and social value of their ethnic identity for commercial and political branding initiatives – is contingent on a patriarchal image of the unchanging, culturally-distinct *mujer maya*.

Bernardo's new clothing line is for men. Here again, his business plan incorporates lessons learned from the previous generation of indigenous leaders. In the 1990s, several pan-Maya activists born in Tecpán attempted to develop a distinctly Maya fashion, a traditional look, for indigenous men. Notably, this did not involve the marketing and promotion of traditional dress styles already on the scene. The movement leaders did not adopt the colorful traje famously worn by men from Todos Santos Cuchumatán in the department of Huehuetenango or the brilliant shirts, pants, and belts donned by men from the lakeside villages of the department of Sololá. Nor did they adopt the style of traditional dress now common to only the oldest males in many towns throughout the highlands, including Tecpán, where a handful of elders complement their button-down shirts and felt hats with sandals, a wool *rodillera*, and loose-fitting, white cotton pants. It is unclear why pan-Maya activists did not broadly promote these styles within the movement, since they were readily available symbols of Maya identification. Perhaps the fact that the traje of towns like Todos Santos and

Santiago Atitlán have such powerful and localized geographical references made them less than ideal for a national movement. Perhaps the leaders felt they would not be taken seriously in such costumes. Carol Hendrickson writes, "The values manifested by the colorful, hand-woven shirts and the calf-length pants of some male *traje*, for example, do not match those of, say, blue jeans and T-shirts or suits and ties. Men in *traje* are therefore seen as 'less' masculine, serious, and competent" (1996: 162). Diane Nelson adds that when a newly-elected or named national President makes the ritual pilgrimage to one of these towns and dons the local dress, people often "snort that he looks like a *payaso* (clown)" (Nelson 2001: 344).

Instead, in a move fitting for "Maya-hackers," the clothing designs promoted and worn by pan-Mayan activists incorporated elements of women's *traje* into Western-styled men's fashion. These garments displayed signs of cultural difference associated with the *mujer maya*, but in a form that simultaneously figured their wearers as modern and cosmopolitan. The best example of this trend was a dark-hued, casual zipper-front jacket designed by a close friend of Bernardo's father and constructed of cotton cloth dyed in the style of a woman's *corte*. The cloth was woven in Tonicapán (a K'iche' Maya town) and trimmed with cotton cord from Tecpán (a Kaqchikel Maya town), symbolically joining together two prominent indigenous communities. The jacket was worn proudly as a display of Maya identity by the movement's male leaders in the early 1990s (Brown 1996: 174). With its production and circulation tightly controlled for several years, the jacket was initially "an unmistakable indicator of status within the

movement” (Fischer 2001: 119). The jackets were eventually marketed to the general population, but never gained widespread popularity.

Bernardo referenced these fashions – the jackets and also some sweater designs featuring Maya hieroglyphs that his father had developed with the jacket’s creator – when we talked about his plans for the Saqkar brand. He explained that those styles did not catch on because they did not appeal to young people, they were considered “*muy del pasado*” (from the past, meaning that they were old-fashioned, but also, quite literally, that the hieroglyphs and *corte* material referred to the past). His designs are decidedly forward-looking. He draws inspiration from fashion websites and the latest styles on sale in Guatemala City. He wants the Saqkar brand to be as much about a new “masculine” style as it is about indigenous identity. So, some of the potential taglines he has developed for the brand include: *Una nueva imagen en tu personalidad masculina* (A new image for your masculine personality), *Define tu estilo* (Define your own style), *Mejora tu imagen* (Improve your image), *Date un toque de originalidad* (Give yourself a touch of originality), and *Tu eres original* (You’re an original). There is nothing particularly Maya about these slogans. The connection Bernardo hopes to make is subtle. His jackets, shirts, and sweaters will appeal to what he sees as truly modern indigenous youth: fashionable males who know the value of cultural difference. The brand name will serve as a bit of indigenous flair, a splash of Kaqchikel cachet, an original inflection on garments that are otherwise indistinct from any other hip, urban youth apparel. Bernardo says that the styles have to sell themselves. People will not wear something just because it has a Maya logo. They first have to be drawn to the

overall look, “*ruwäch*.” This is a new generation of Maya-hacker who can wear all the trappings of *Ladino* modernity on the outside, but keep his indigenous identity close by, on the inside, sewn into the collar of his Saqkar sweater, a secret pride that he reveals in a retail transaction or the purposeful flash of a tag. This is a deeply gendered approach to modernity, given the cultural politics surrounding indigenous women’s far-from-subtle styles of dress. It is also the kind of intimate, consumer politics of indigeneity – rooted in affective labor and personal identification – that the brand form encourages.

Neoliberal Brands

Charles Hale (2002) developed the concept of “neoliberal multiculturalism” to describe how cultural rights claims made by disadvantaged groups have been embraced by the Guatemalan government, but only insofar as they do not cross over into demands for “control over resources necessary for those rights to be realized” (Hale 2005: 13). The Guatemalan state, he notes, celebrates cultural difference and acknowledges the cultural rights that indigenous activists have worked to secure. It has done little, however, to address the structural conditions that make the vast majority of indigenous Guatemalans vulnerable to poverty and insecurity (Hale 2006).³⁸

Neoliberal reforms have also fueled ongoing transformations related to the value and importance of branding for contemporary market systems and induced the proliferation of brand excesses – the pirated and counterfeit copies, grey market goods, and second-hand meanings that build up along transnational circuits of affective and

³⁸ Similar findings emerge from work by Gustafson (2002) and Postero (2007) on neoliberalism and ethnic politics in Bolivia.

material production and consumption. The forms of brand piracy practiced in highland Guatemala are indeed symptomatic of the kinds of transformations in global marketing that neoliberal economic programs have encouraged. The geographical expansion of trademark law has made it possible for corporations to use brands (perhaps more so than design or price) as a way to establish themselves in new markets. The globalization of labor and capital and the flexible movement of commodities across borders have lowered manufacturing costs, freeing up capital for brand investment and promotion, and loosened ties among brand owners, manufacturing sites, and consumer communities – all of which makes branding an increasingly important driver of profit (Klein 2000; Lury 2004; Nakassis n.d.). Neoliberal market reforms have increased the value of brand images, while processes of globalization associated with neoliberalism have made it more and more difficult to control appropriations of those same brands.

In Guatemala, the brand form emerges as crucial to both national and local projects of re-imagining the postwar nation-state. The state and private enterprise capitalize on culture to create a “nation-brand” around indigeneity (Mazzarella 2003). The government also positions itself, at least rhetorically, as a protector of brand sovereignty for multinational corporations, demonstrating that the country is on the progressive path toward development (Vann 2006: 289). Maya pirates get lumped together with gang members, organized crime, and “delinquent” youth in a generalized portrait of blame that has proven especially useful for the political right, which garnered widespread support during the national elections in 2007 and 2011 for its tough-on-crime (i.e., militarization) platform (Benson et al. 2008: 39). The Guatemalan state and

national elite thus profit from local “exceptions” (Ong 2006) to the neoliberal logics of brands and branding by laying blame for development failures at the feet of indigenous “pirates” said to be backward and uneducated, playing into longstanding structures of racism and postcolonial projects of cultural and economic assimilation.

The trademarked brand also serves as a medium for reorienting indigenous entrepreneurship and Mayan cultural politics toward a formal model of national development. The postwar indigenous movement has been a “finger in the wound” (Nelson 1999) of the Guatemalan body politic, a continual reminder of racial divides, long-standing inequalities, and the violence of a genocidal war. Appropriations of indigeneity in the form of a brand, as part of a marketing strategy, conform to rather than challenging the legal and economic structures that foster inequality. They encourage the expression of indigenous affiliation through formal production and consumption habits, a kind of consumer citizenship (Lipsitz 2006) that perhaps takes away from the collectivized political mobilization that characterized the pan-Maya movement. Globalized IPR laws shape an uneven geography of control over the meanings and practices of indigeneity in postwar Guatemala while also underwriting a process of neoliberal marketization and a politics of criminalization and moralization that covers over the historical burdens and social conditions that underpin patterns of illegal behavior and informal economic activities.

Chapter Five: Legal Pluralism and the Rule of Law

The anthropologist John Bowen (2003) applies the philosophical concept of “value-pluralism” to his research in Indonesia, where Islam, *adat*, and Western notions of “rule of law” all inform how rural villagers argue and deliberate about how one should live. Mark Goodale (2009) builds on Bowen’s work to develop the notion of “transnational normative pluralism,” which describes how multiple moral and legal frameworks come together “within the transnational spaces through which the endemic social problems of our times are increasingly addressed” (Goodale 2007: 3). Piracy production in Guatemala sits at the nexus of transnational projects aimed at establishing democratic rule of law in the postwar era (Sieder 2011), waves of legal globalization that include the spread of IPR, ongoing pressures of market liberalization (with its accompanying narratives on human nature and proper market behavior), and durable histories of marginalization affecting the country’s indigenous population. In Chapter 4, I explored the ways that intellectual property law is engendering new expectations of formality, legitimacy, and legality in Guatemala’s apparel trade. This process depends heavily on the integration of the law and its rationalities into non-legal spheres, such as higher education, social movements, trade policy, the transnational marketplace, and the media. This is part of the broader picture of how law has been joined together with international political economy, especially the fusing of economic models with legal principles (Posner 1978) and the way that international law is used to promote a particular model of capitalist development (Rajagopal 2003). Law has now

become a favored mechanism for restructuring and reengineering global commerce. At the same time, discourses of law and order, national and international security, are used to justify all kinds of interventions into the lives of people in the developing world in the interest of promoting and protecting multinational capitalism. Understanding what is happening in highland Guatemala's domestic apparel trade, then, is not just about getting at a local context, "another country heard from" (Geertz 1973: 23). It is also about placing localities within broader systems of power where people have little say, but must contend with consequential impacts.

In this chapter, I discuss the contemporary context of crime and violence in Guatemala, especially forms of physical and economic insecurity faced by apparel producers from Tecpán in the course of their business dealings. My aim is not to contribute to the "pornography of violence" (Bourgeois 2001; Daniel 1996) evident across the national media in Guatemala, newspapers filled daily with full-color photos of the victims of violent crime. I highlight events and recount stories told to me by Tecpanecos about daily insecurities and local security strategies in order to explore the multiple layers of legal meaning that hold sway in this social setting. As political scientist Rachel Sieder notes, "Any analysis of attempts to promote the rule of law must examine what 'law', 'rights' and 'justice' mean for different actors in different places and to analyse [sic] the interplay between broader dynamics of internationally promoted judicial reform and national specificities" (Sieder 2003: 141). While taking Sieder's admonition as a starting point for this analysis, I also wish to trouble the simple dichotomy that she sets up between global systems and national differences, especially since that kind of

language risks reinforcing the “culture of piracy” arguments put forth in the legal and business literatures on IPR discussed in Chapter 1. It is true that one’s social location in the postcolonial global field often influences perceptions of and attitudes toward intellectual property and law more generally (Halstead 2002). “If you live in a college dorm,” Ian Condry notes, “the question is not *why* you don’t respect copyright law. The question is, how could you *not* share music?” (2011: 347). Dorm rooms and garment workshops, however, are not “discontinuous spaces,” disconnected from the wider world (Gupta and Ferguson 1997: 33). People are differently positioned in complex and crisscrossing “social, business, and technological networks” (Condry 2011: 346) that structure economic behavior and moral sensibilities. Moreover, law is a dynamic cultural system (Geertz 1983; Rosen 1989, 2006), a field of engagement that resists localization. Law reflects large-scale historical processes and diverse relations of power and production (Starr and Collier 1989; Lazarus-Black and Hirsch 1994).

I am interested here in the particular moralities and relationships to the law that take shape among members of Tecpán’s commercial class, people who are deeply invested in capitalist enterprise but who nonetheless have an ambivalent relationship to capitalist competition and First World development models premised upon free trade and hyperconsumption (see Chapter 3). Garment manufacturers’ marketing strategies often take shape around the national security context (Thomas 2009), as when they refuse to sell in Guatemala City for fear of being robbed or pursue market contacts in San Francisco El Alto because it is an “organized” town (see below). Ideologies of work also play a large role in how people talk about insecurity in Tecpán and in the security

strategies Tecpanecos adopt to contend with crime and violence. Moreover, garment manufacturers' relationships to state institutions and the law is often premised upon an understanding of themselves as businessmen and entrepreneurs. Security is expressed, often simultaneously, in economic as well as existential terms, and takes on the meaning of protecting oneself from the state as much as from *delincuentes*. This orientation toward the law and other state institutions reflects a multi-sided engagement among apparel producers with the globalized neoliberal ideology of entrepreneurial freedom, the kinds of "security talk" (Goldstein 2007) that animate national and international politics, and the deep history of violence and discrimination against indigenous people in Guatemala.

Legal Pluralism in Guatemala

Legal anthropological studies in Guatemala have generally followed the model of "classical" legal pluralism (Merry 1988: 872), focused on a dichotomy between formal, state law and what is alternatively labeled customary, indigenous, or traditional law.³⁹ This research has productively illustrated the dialectical relationship between informal modes of adjudication and the functioning and failures of the state's formal legal institutions. It often touches on the broader social conditions in which people seek justice in Guatemala. What this research has not examined in depth, however, are the "other normative orders" (Merry 1988: 880), the spheres of moral and legal reckoning that lie beyond the immediate context of dispute resolution, civil courts, and criminal

³⁹ See Sieder 1996; Esquíit and García 1998; Mayen 1995; Ochoa García 2002; and Godoy 2006.

justice but that nonetheless contribute to indigenous concepts of justice, rights, and obligations. The turn toward a “new” legal pluralism exemplified in the work of many anthropologists since the 1970s⁴⁰ turns on “a rejection of the law-centeredness of traditional studies of legal phenomena, arguing that not all law takes place in the courts” (Merry 1988: 874). Such studies examine how various kinds of social regulation shape the law and influence people’s attitudes toward and interactions with the state and legal institutions. The literature on legal pluralism illustrates that the law and legal processes constitute and are constituted by various non-state social fields (Merry 1988: 883; see also Moore 1973; Fitzpatrick 1983, 1984).

Multiple legal systems and legal authorities have been institutionalized in the highland region since the colonial period, when one set of laws governed people of European descent and a second set governed the *República de Indios*, providing for their segregation and paternalist protection by the Spanish Crown. This dual system remained largely in effect until the liberal reforms of the late nineteenth century impelled state centralization together with increased militarization. Still, as political scientist Rachel Sieder notes, “subordinate semi-autonomous legal spheres for local conflict resolution continued to exist within indigenous municipalities” (2003: 139). Despite the broadening and intensification of state power and repression during the military dictatorship of Jorge Ubico (1931-44) and later during the internal armed conflict, many towns maintain parallel legal institutions today. The municipalities of Sololá and Chiyax, for example, continue to elect dual local governments, one headed by the *alcalde* (mayor), the other

⁴⁰ See, for example, Fitzpatrick 1980; Greenhouse 1986; Merry 1979; Moore 1973, 1986; Nader 1990, 1997; Starr 1978; and Starr and Collier 1989.

by the *alcalde indígena* (see Smith 2004). The communal authorities that comprise the indigenous governments of these towns commonly serve as mediators, arbitrators, and judges in civil disputes. Although there remains a great deal of discussion about what “indigenous law” comprises, some appellate and lower courts in Guatemala have now taken the legal systems claimed by local communities into account, even applying principles elaborated by indigenous authorities in their decisions. The institutionalization of indigenous law at national and local levels and its objectification in international legal agreements encourages a continued, dualistic approach to legal pluralism in Guatemala.

Chiyax, a town in the Western department of Totonicapán, provides the setting for a now famous case of the application of *derecho indígena* to a criminal matter and an exemplary model of how “legal dualism” works in indigenous communities and in scholarship.⁴¹ After a series of unsolved robberies in 2003 and amidst great frustration with what townspeople perceived as a situation of “lawlessness” overtaking their community, Chiyax residents nabbed three men suspected of attempting to steal a home stereo system. Before police arrived at the scene, several hundred people had gathered and the robbery suspects had been severely beaten. Another young man was picked up in a nearby community and suspected of acting as the robbers’ get-away driver. His car was set ablaze, the young man’s clothes tossed into the flames, and he was paraded naked through the streets before being handed over to the police along with the other two suspects. Even as the public prosecutor’s office and the *Juzgado de*

⁴¹ This discussion of the Chiyax case is based on a report published by the communal authorities in conjunction with the Centro Pluricultural para la Democracia (CPD et al. 2005).

Primera Instancia (the local criminal court) investigated and considered the charges, a discussion ensued among townspeople and communal authorities as to how they might try the men according to what they termed *el derecho maya-k'iche'*. The state judge presiding over the case met with communal authorities, and at the urging of the public defender's office who viewed this as an opportunity to restore faith in the judicial system among town residents, decided to turn the case over to them. Indigenous leaders heard the case in a manner loosely based on an historical document, *El Título de los Señores de Totonicapán*, guided by principles of harmony and equilibrium identified by community leaders as indigenous values, and under the supervision and guidance of a non-governmental organization and state authorities charged by the communal authorities with ensuring that the human rights of the accused were not violated nor the state penal code contradicted. After the men had been tried and sentenced to community labor (picking up trash) by the local authorities, the criminal court judge formally dismissed the state's case to permanently settle the matter. In his statement of dismissal, the judge set precedent for the role of indigenous law in criminal cases. Noting that *derecho indígena* privileges reconciliation over punishment and sets out principles of right conduct, he argued that it must be recognized as a legitimate source of legal principles and procedures according to the 1985 Guatemalan constitution, given that document's recognition of the collective rights of indigenous peoples and acknowledgement of the pluricultural character of the state.

Communal authorities in Chiyax and the NGOs assisting their efforts appealed to the International Labor Organization's (ILO) Convention 169, ratified by Guatemala in

1995, as a basis for their right to carry out “indigenous justice.” The Guatemalan Congress had initially vetoed the clause that recognizes indigenous peoples’ right to exercise customary law, “viewing the granting of greater political and legal autonomy to indigenous peoples as a potentially dangerous concession” (Sieder 2003: 144). In its place, the Congress instituted a new “community court” system in select indigenous municipalities with little input from local authorities. Rachel Sieder points out that these local judiciaries had some success in providing “culturally accessible, bilingual conflict resolution,” even coordinating their efforts with traditional authorities at times. But in 1999, the Guatemalan public rejected indigenous peoples’ right to exercise customary law in a national referendum,⁴² which limited the ability of these *Juzgados de Paz Comunitarios* to recognize local conflict resolution procedures unless they unquestionably fell within the parameters of Guatemala’s Penal Procedures Code (Sieder 2003: 145). The judge’s ruling in the 2003 Chiyax case signaled a new direction in the recognition of indigenous law as a meaningful and authoritative part of the national judicial landscape. In late 2004, a ruling by the Guatemalan Supreme Court established a precedent that many have interpreted as a warning to the judicial branch that “courts cannot ignore the jurisdictional functions of traditional authorities in indigenous communities nor ignore their role in adjudicating crimes and resolving conflicts” (Ochoa García 2009: 5, my translation).

The recognition of indigenous law in Guatemala is part of a more general international trend toward “legal decentralization,” meaning the spread of alternative

⁴² The referendum followed intensive campaigning by elite sectors against the recognition of indigenous rights, and a measly 18 percent of the populace turned out to cast their ballot.

dispute resolution models that have the capacity to increase the autonomy of local communities from state-centered legal systems. At the same time, as Sieder points out, the promotion of community-based justice in Guatemala “also effectively reduces the direct responsibilities of the state for legal redress in certain spheres, in effect privatizing law by devolving responsibility for dispute resolution to communities” (2008: 79; Nader 1988). The risk that Sieder and others point to with regard to the current emphasis on indigenous law in international and national contexts is that *derecho maya* comes to function as a stand-in, an alibi, for addressing and redressing the concerns about “lawlessness” that Maya people in towns such as Chiyax lament. Indigenous law, then, needs to be understood not as a simple solution to the problems of illegitimacy and criminality, what Sieder (2008) calls “illegal pluralism,” confronted by Maya communities, but as one conceptual and practical framework that has been forged in the ongoing interactions among local communities, the nation-state, and international institutions (see Merry 1988), and through which norms, values, and, indeed, frustrations related to conditions of insecurity are being expressed in indigenous communities today (Godoy 2006; Sieder and Witchell 2001).

Human Rights

In early 2009, a lawyer in Tecpán was shot to death in the street outside his office. According to witnesses, the lawyer had just unlocked his office door to begin the business day when a black sedan, a grey pick-up truck, and a motorcycle all pulled up behind him. The driver of the motorcycle fired several shots, then all three vehicles sped

away, leaving the man lying in the busy street, the crowds of children walking to school terrified by what they had just witnessed. A volunteer fireman who happened to be at the scene tried to help the fallen man, but there was little he could do.

Rumor and gossip about the shooting – and the lawyer – spread quickly around town. Just a few hours after the murder, there was a general consensus among people with whom I spoke that the lawyer had been working on cases that involved “very bad and very dangerous people,” as one middle-aged woman who runs a *tienda* near where the shooting occurred explained to me. “If you’re going to be involved with the law, it is better to take *casos livianos* (light cases),” she said. “He was in for more than he could handle.” In her explanation and that of many others, there was little talk of justice for the dead man and his family. Blame, in fact, seemed to fall on the shoulders of the victim rather than the narcotraficantes who were presumed to have assassinated him. “He should have known better,” was a common refrain. Such accusations implied that the lawyer, an indigenous man from a well-known Kaqchikel Maya family and one of a small but growing cohort of indigenous professionals in town, had acted irrationally in his business dealings, becoming involved in dangerous cases out of ambition or greed. The discourse of *envidia* was not far beneath the surface of such talk.

A few days after the shooting, a woman who works at the Centro de Salud in Tecpán complained as we lunched in a local *comedor* that the lawyer’s body had been left in the street for six or seven hours before authorities took it away to the morgue in Chimaltenango. “This is the problem in Guatemala. The government services don’t work. It always takes so long to get anything done.” For me, this may have resonated as

part of “the problem in Guatemala,” but the assassination of the lawyer seemed at the time a much more pressing issue than government inefficiencies and inadequate services. The murder rate in Guatemala now far exceeds the average number of deaths per year during the armed conflict, and the context of rampant impunity, where more than ninety-nine percent of violent crimes go unsolved (HRW 2011), leaves most Guatemalans convinced that the current state of affairs will continue for some time. In the last three national elections, right wing parties promising an “iron fist” approach to security garnered widespread support. Internationally-assisted processes of institutional reform in the judiciary and anti-corruption campaigns in the police ranks and court system have yielded few tangible results for the Guatemalan people. Crime and violence now appear to many Guatemalans as deeply entrenched in daily life, as if a natural part of how Guatemala functions. More violence – a militaristic approach to rooting out the narcotraficantes and transnational street gangs that have overwhelmed Guatemala City in recent years – seems to many the only sensible response.

Indeed, drug trafficking and the violence associated with the drug trade are rapidly emerging as an urgent security matter in Guatemala. A crime wave that only a few years ago appeared to many social scientists and observers as a kind of everyday violence symptomatic of the conflict’s legacy and the structural violence of neoliberal economic reforms can now also be read as an intensifying turf war being fought among drug cartels. Labeled a “narco-state” in the international media, hundreds of tons of cocaine move through Guatemala each year, with over US\$10 billion worth of illicit drugs seized over the last four years inside Guatemala’s borders (López 2010; BBC News

2011). Observers agree that increasing legal pressure from the Mexican government has only pushed powerful drug cartels south into Guatemala (Beaubien 2011). Los Zetas and other Mexican gangs have heavily recruited ex-soldiers and special operations forces from the Guatemalan army into their ranks and insinuated themselves into the nation's political and economic networks for protection (López 2010). Staggering incidents such as the September 2010 shoot-out between police and a cartel member inside Tikal Futura, one of Guatemala City's busiest malls, and the May 2011 massacre of 27 peasants in El Petén, the northern province bordering Mexico where much of the territorial battling is taking place, have garnered significant media coverage in the US and Europe. International concerns about the regional "investment climate" and effects on the national "development agenda" are beginning to mount (World Bank 2011).

My field work took place just as evidence of narco-trafficking's impact on Guatemalan society was surfacing. Talk about *maras*, that amorphous category used in Tecpán and throughout the highlands to reference transnational gangs such as MS-13 that control parts of the capital city but also "delinquent youth" who stay out too late in the streets (Thomas et al. 2011), was slowly giving way to talk about *narcos*. The local lawyer's death, allegedly at the hands of drug runners, signaled to many Tecpanecos that the drug problem was quickly becoming their problem. I was asked over and over during my fieldwork why people in the US use so many drugs, a question routinely followed by a reference to the problems of violence that US drug use seemed to be causing in Guatemala.

I knew the family of the lawyer who was murdered in Tecpán very well, and when invited to visit them for the *novena*, a Catholic ceremony of mourning, prayer, and remembrance nine days after his death, I sat with his widow as she wrung her hands and, between fits of tears, struggled to get out a few sentences in Kaqchikel explaining to her mother and four sisters the predicament facing her. She was troubled by all the rumors circulating in Tecpán blaming her husband for his own demise because his work involved contact with drug and street gangs. She had met with judges in Chimaltenango and state prosecutors from the *Ministerio Público*, urging them to advance the investigation and also soliciting protection for herself and her children in case the perpetrators were not finished. Officials had coarsely advised her to pack up her family and leave Tecpán if she wanted to feel safer. The widow was deeply angered by the government officials' unsympathetic attitudes and unwillingness to help her. She expressed doubt that the people who killed her husband would be caught and worried that her children were not safe.

As she talked, we heard a sound like a gunshot coming from the street, and the *muchacha* (female domestic worker) ran outside to check on the widow's young children. She returned to report that the noise was evidently a firecracker, not surprising given the ubiquity of pyrotechnics in town, which are eagerly exploded to celebrate birthdays, saint's days, weddings, and baptisms. It is not uncommon to hear firecrackers throughout the night in Tecpán, although there is frequent speculation among neighbors as to whether or not there were gunshots intermingled with the explosions, people constantly scanning the sensory landscape for evidence of

delincuentes and *mareros*. Knowing that the children were safe brought a moment's relief, but the widow and her sisters quickly embraced in a flood of tears as grief and fear overwhelmed them. The mother of these women suggested that we all take a drink of *cuxa*, the locally-distilled, sugar-cane liquor, to relieve our sadness and ward off *susto*, a dangerous illness brought on by fright. As the mother poured each glass, one of the sisters, a trained midwife and nurse, commiserated with her sibling, saying that what the officials in Chimaltenango were telling her about leaving town was "*una discriminación*." She noted that she had training in "*los derechos de la mujer*" (women's rights), and that these include the right to live where one wants to live and to decide what to do with one's family. She urged that it was not right for these men to tell her sister that she had to move and to deny her police protection. Even if she could not prove that her family was in physical danger, the sister continued, she deserved assistance because she was in danger of a psychological breakdown due to the trauma of losing her husband.

The language of rights is now ready-at-hand for people across the globe, although rights discourses have been taken up in various ways and to diverse ends by different populations (Merry 2001; Goodale 2009). In Guatemala, the language of cultural rights and indigenous rights was central to the peace process and continues to inform local and national politics. As one Maya cultural activist commented to me, "No one talked about 'rights' when we first started [in the 1970s], but now we know that is what we were seeking." Women's rights are an important discourse in Tecpán because of the efforts of various international and national NGOs, which hold training workshops

like the one for midwives that the widow's sister had attended. Women's rights offer a new vernacular in which women often negotiate and make sense of their roles in public and private spheres. The term is invoked among women to parse out everything from proper courting behavior to reproductive health issues to one's relationship to the state. In a country where domestic violence is "widespread" (IRBC 2005), where the Catholic Church continues to dominate conversations about family planning and women's health, and where issues of gender discrimination have so often been obscured and suppressed even within the indigenous rights movement (Warren 1998), the proliferation of talk about women's rights could be seen as an important step toward raising awareness about gender equality.

Children's rights were also a topic of popular discussion during my fieldwork, in part because of a highly-visible publicity campaign staged by an international NGO that included rather vague messaging about "*los derechos del niño*" on signs along the Pan-American Highway. A few primary school teachers in Tecpán complained to me that they could no longer discipline the children in their classrooms because of all the attention given now to "rights of the children" and "rights of the parents." One explained that a colleague had physically disciplined a fourth-grader after the child bit her arm. When she called the child's parents in for a meeting to discuss the incident, the parents complained that the teacher had no "right" to hit their child and that they could report her to the authorities for abuse. To the teacher recounting this story, the case served as evidence that "things are getting really bad with everyone having so many rights."

The term “human rights” often takes on a negative valence in Guatemala. Human rights are conceptualized by many Guatemalans as stumbling blocks to justice, a set of protections that seem to apply to delinquents more than to law-abiding citizens, and which impede the prosecution and punishment of criminals. An older apparel manufacturer from Tecpán expressed such concerns as we talked about the dangers of selling goods in Guatemala City’s wholesale markets.

It’s been a long time since I sold in Guatemala City. Things have been bad there for a long time. I don’t remember when it was, maybe fifteen years ago. I was robbed three or four times in one year. One time, I was just travelling through, looking for a bus back from Esquipulas. I had to stay overnight in Guatemala City. I got up at six in the morning, and when I was waiting for the bus, just like that, they grabbed me and took all my money. They left me half-dead. When I woke up, I went straight to the hospital because I was couldn’t stand the pain. Guatemala City is tough right now, even worse than before. Now, the thieves are taking over. And the government doesn’t do anything. They let them go, because, it’s like this: Human Rights⁴³ are what is helping them. There’s no law. There’s nothing. The police grab them, but what for? They take them in [to jail], but there are others walking out at the same moment. Now they’re killing people in Guatemala City every day, and no one is doing anything, as if they were animals.”

⁴³ I capitalize the phrase “Human Rights” here to emphasize the reification of this legal regime in this man’s statements and in local discourse more generally, where Human Rights are treated as agentic subjects that actively favor criminals, for instance.

With more than twenty percent of the population living in the capital region, Guatemala City is an important center of commercial life. Rising crime rates discourage many producers from selling there, however, especially smaller-scale workshop owners who do not have the provisional safety of their own automobiles for traveling back and forth and making deliveries. As with the gossip that surrounded the lawyer's death in Tecpán, blame for crime and violence is often directed not just at the criminals themselves, but also toward individuals and institutions viewed as promoting criminal activity through their actions. Indeed, this producer expresses a common perception that "Human Rights" encourage crime. Bail and due process are viewed as unfair privileges granted to people who are "known" criminals, who are said to be released in spite of the fact that they were caught "*con las manos en la masa*" (with their hands in the dough). In point of fact, Guatemala's "failed prison system" operates at 170 percent capacity, making it difficult to keep even convicted prisoners behind bars for the full length of their sentences (O'Neill 2010).

Human rights are often contrasted by scholars and citizens in Guatemala with the swift justice meted out by local communities in the practice of *derecho indígena*. As anthropologist Stener Ekern writes, "Many Mayas find the work of human rights activists – governmental or nongovernmental – to actually reproduce and even to further state power in their communities and therefore conclude that, at least locally, human rights are out of place" (2008: 126). He interprets indigenous people's concerns about human rights as evidence of a suspicious attitude toward the state conditioned by histories of state violence and discrimination. Ekern cites Maya leaders in Totonicapán

who say that “human rights favor the guilty” and who express concern that the legal system’s emphasis on human rights comes at the expense of a more locally-salient emphasis on respect for community obligations (2008: 136). The critique of human rights in Guatemala is not limited to indigenous Maya, however. While I found that Tecpanecos are concerned that “*derecho kaxlan*” (state law)⁴⁴ poses a threat to community stability, these concerns were expressed in terms of the safety and security of family members and neighbors and not necessarily in terms of “indigenous” justice. Indeed, explanations for the resistance to human rights evident among the Maya that are based on local or national cultural difference fail to take into account the widespread circulation of such critiques across ethnic groups throughout Latin America and the Caribbean.⁴⁵ As the anthropologist Daniel Goldstein (2007) argues, reactionary stances against human rights in Latin America are not always attributable to “culture,” nor are they evidence of romantic resistance movements among indigenous citizens or the poor. Rather, attention to human rights seems to many Latin American citizens to directly contradict the discourse of security and “talk of crime” (Caldeira 2001) that permeate local conversation and which powerful groups continuously exploit to further national political campaigns and international development agendas. In the context of so much “security talk” (Goldstein 2007: 50) that is also a mechanism for displacing blame from governments and world capitalist systems onto the backs of individual “criminals,” many Latin Americans – faced with the kinds of insecurity that neoliberal

⁴⁴ In Kaqchikel, *kaxlan* refers to both *Ladinos* and foreigners, so the phrase encompasses laws that come from outside of Maya communities (i.e., state law) as well as international law.

⁴⁵ See Tate 2007; Speed 2008; Goldstein et al. 2009; and Smulovitz 2003.

capitalism and the war on drugs have deeply entrenched in daily life – tend to view certain rights frameworks as contributing to the problem. “Children’s rights,” for instance, appear as a gateway to delinquency, and “Human Rights” seem unfair protections for people who pose a danger to local communities.

Local Dangers

Despite their discontent with the state judiciary and suspicious attitudes toward human rights and government institutions, Maya people in Tecpán have an ambivalent relationship to indigenous law, and many do not see it as a welcome alternative to *derecho kaxlan*. In popular discourse throughout Guatemala, indigenous law is often equated with lynching.⁴⁶ The kind of violence carried out by Chiyax residents in the immediate aftermath of the suspected thieves’ capture, for example, tends to overshadow, in the popular imagination, the procedures and values the community leaders enacted and espoused in the course of carrying out the trial. Social scientists tend to frame the incidence of lynching as an inevitable outcome of the internal armed conflict – the enduring social and psychological trauma it caused and the militarization of daily life it impelled through institutions such as the Civil Self-Defense Patrols (PAC) – and the social and economic conditions of the postwar period, including widespread impunity, a lack of access to formal judicial institutions, socioeconomic inequality and

⁴⁶ See, for example, a news story in Guatemala’s *Prensa Libre* (Castillo et al. 2011) in which a representative of the President’s Commission on Human Rights describes a recent lynching incident in the majority-indigenous department of Huehuetenango as the people “quenching their thirst for justice” (my translation). There were at least 500 cases of lynching in Guatemala between 1996 and 2002, and these incidents are a favorite topic of the national media, exploited in colorful images of burning cars and beaten bodies.

chronic poverty.⁴⁷ Lynching and other forms of collective violence have been associated in much of this literature and in the Guatemalan media with indigenous people and the rural regions they inhabit. Meanwhile, fifty-three percent of lynchings and attempted lynchings reported in 2008 occurred in urban areas, mostly in the capital department of Guatemala (Camus 2011: 65).

In Tecpán, people with whom I spoke described a fine line between indigenous law and “dangerous” tendencies in many towns toward violent reprisals against suspected gang members and criminals. Miguel Tecúm, the thirty-five-year-old garment manufacturer introduced in Chapter 2, described what he called “*el castigo Maya*,” Mayan punishment, in starkly negative terms.

It’s not that the Mayas were always like this. *El castigo Maya* is what the indigenous people do over there in Sololá and Quiché. The indigenous municipalities have it as a kind of rule that when a person is captured, they tie him up and put him in the center of the plaza and, in a public display, they whip him [*lo azotan*] ... they punish him, take his clothes off, and beat him. In Tecpán, we’re not capable of that kind of thing. We say that those people are backwards [*atrasadas*].”

He adds with a sly nod toward my anthropological studies, “Like cannibals.” I point out that no one is being eaten. He laughs and continues,

Well, we say they’re backwards. I mean, not moderate. And they don’t go along with our principles, our religious principles here in Tecpán. For us, our religion

⁴⁷ See, for example, Godoy 2002, 2006; Fernández García 2004; Handy 2004; Adams and Bastos 2003; and Kobrak and Gutiérrez 2001.

doesn't permit us to act like that, and our customs don't allow it either. Over there in Sololá, they still have a lot of respect for their ancestors, really. So, the custom from long ago, before there were any police, was immediate punishment. In Quiché, the immediate punishment is to burn the criminals.

Miguel points to his Catholic faith as a source of principles for dealing with questions of justice and punishment. He also contrasts the "customs" in Tecpán with those of the departments of Sololá and Quiché. In other conversations, Miguel, like many other garment manufacturers, expressed to me that Tecpán has lost much of its traditional values and ways of life because of the growth of commerce and industry (see Chapter 3). Here, this distinction between Tecpán and other, more traditional regions, takes on a positive valence and is evidence of the complex relationship that garment manufacturers have to the various meanings of indigeneity in Guatemala. Indeed, it is reflective of the complex politics of indigeneity that, in large measure, defines Guatemala as a postcolonial nation-state. At once, there is the long-standing "Indian problem," the idea that Maya people – poor, uneducated, mired in tradition, inferior in every way to *Ladinos* – pose an obstacle to the state's social modernization and economic development (Handy 1989). This "problem" has been addressed in various ways by the nation's elite, from assimilation projects during the liberal periods of the nineteenth century to the genocidal violence of the armed conflict. At the same time, resistance to such a characterization among long-suffering Maya men and women, who have often turned inward and congealed their own bonds of solidarity and community for protection against racism and discrimination (Smith 1995), has been bolstered by the

work of indigenous activists and the significant international support garnered by the pan-Maya movement. Indigeneity has emerged in the post-war context as an objectified identity that offers significant symbolic capital.

Tecpanecos occupy an ambivalent location in relation to these competing portraits of indigeneity. Edward Fischer writes that, since colonial times, Tecpán “lay on the border between the Indian and Spanish worlds” of Guatemalan society (2001: 51), situated close enough to the Spanish and later *Ladino*-dominated capital region to facilitate access and exchange, but also serving as a gateway to the indigenous West. The departments of Sololá and El Quiché, which border Tecpán’s municipal boundaries, are part of the Western ethnoscape, conceptualized as more indigenous, more rural, more remote, and more closely linked to tradition in the national spatial imaginary.⁴⁸ In Miguel’s discussion, this spatial distinction takes on temporal dimensions as well. He says, “the Maya,” among whom he counts himself, “weren’t always like that,” and yet situates practices of community justice as part of a shared past, a time before modernity, “before there were any police.” Lynching here is both evidence of the contemporary problems of insecurity in Guatemalan society, having made the Maya into something they haven’t always been, and also evidence of the backwardness and perhaps backward-looking tendencies among Maya who have not adapted their

⁴⁸ I refer here to Ghassan Hage’s (1996) concept of the “spatial imaginary,” which emphasizes how particular kinds of space, such as the nation or the city, are thought to have particular qualities and how senses of community and belonging are often mapped onto geographical spaces. As part of the Guatemalan national spatial imaginary, it is interesting to note that anything outside of Guatemala City is referred to as “*El Interior*” by capital-city *Ladinos*, despite the fact that the capital sits near the geographical center of Guatemala. The term connotes, therefore, the kind of colonial geography that associates modernity with the colonized coast, and indigeneity or “the primitive” with the uncharted, inner regions of the continent and the colonial subject (Said 2008).

customs to modern times or transitioned from the ways of “their ancestors” to the norms imposed by institutionalized religion and state law.

Other garment manufacturers with whom I spoke idealized “immediate punishment” as the answer to the kinds of insecurity that threaten commerce and the social order more generally, though many also expressed a similar ambivalence related to whether or not it is an appropriate way for people to behave. Jorge Costop, the young man who so adamantly defended his practices of copying sweatshirt designs (see Chapter 3), talked with me about issues of security related to selling in the market in San Francisco El Alto.

The market in San Francisco is the biggest in Central America. Twenty million quetzales move through there each week. In December, when trade is really lively [because of the holiday season], there are lines at all the banks. Everyone wants to deposit the money he made that day so he doesn't have to risk being robbed on the highway, because people rob the buses all the time. But in town, the people are really organized. That's why there are so few thieves in the market. If the people there see a thief, he won't make it more than three blocks before they grab him. Now, in the capital, if they see a thief who is robbing someone, they don't do anything. San Francisco is a really small town, but very organized, and the economy is huge!

As we talked in his workshop, he turned away from the table where we were standing to answer a question from the *cortador*. The teenage boy is not sure which colors of fabric he should cut next for the seamsters. Once Jorge relayed a few instructions, we picked

up our conversation. I asked him whether people in Tecpán are organized the way they are in San Francisco. He said they are not, and lifting his gaze from the finished sweatshirts he had been folding, looked me in the eye to ensure that I got his meaning.

Here, people are afraid. Look, there are two things. A lack of education makes a person do a lot of things that are wrong. Here, we know that people have rights, and we have respect for life. But, there [in San Francisco], maybe because people work so much, and that makes them very violent, and because they are uneducated, they take the laws into their own hands. They even burn people – they’ve burned them! So, here, our town is known as a tranquil town. If you walked around with your backpack in other towns, when you sat down, they would grab it. People aren’t organized because they don’t have to be. But in other places, people are organized because it’s necessary.⁴⁹

Jorge’s initial enthusiasm for the level of “organization” among the people of San Francisco quickly fades when he begins to explain why the same is not true of Tecpán. Perhaps motivated by my status as a gringa, who he no doubt suspects is aligned with “Human Rights,” he sets out to clarify this difference. First, this young man, who completed some high school training (much more than his grandfather who helped him get his start in the garment trade), emphasizes the importance of education. There are similarities here to how IPR scholars talk about the need for educational programs to promote respect for trademark law (see Chapter 1). The idea so common to the legal

⁴⁹ As Judith Zur (1999) notes, the Guatemalan state has a history of suspicion with regard to “organized” indigenous communities. The formation of agricultural cooperatives, cultural groups, and peasant unions were all viewed by the government as “subversive” actions in the aftermath of the 1954 coup and often served to justify violence.

and business literatures that people must be ethically reoriented to proper behavior through a process of informed reasoning does not actually resonate, however, with this manufacturer's comments. Significantly, he does not argue that people in Tecpán do not lynch criminals because "people have rights," but because "we know that they have rights." There is a distancing, an objectification of the discourse of rights evident here, in which Jorge claims access to modern forms of knowledge and acknowledges the power of rights discourse to define proper and improper behavior, albeit without substantiating or endorsing those forms of knowledge. In effect, he refrains from embracing the rights project as his own politics and ethics.

Jorge engages in the same kind of stereotyping as Miguel, characterizing those people up "there" as more violent and less educated than Tecpanecos. San Francisco El Alto is even further west than Sololá or El Quiché, a sure indication of its backwardness according to the national spatial logic. Still, San Francisco shares Tecpán's history of commerce and enterprise. For Jorge, this is a dangerous combination. People from San Francisco "work so much," he comments, "which makes them very violent." Possibly basing this comment in a personal sense of economic frustration that he feels with regard to his own hard work in the garment trade, Jorge also participates in a logic that equates commerce with a loss of values, even a loss of the physical and spiritual "balance" associated with agricultural labor, which many Maya people say keeps a person healthy (both physically and in the context of the social body), centered, and

sane.⁵⁰ Thus, collective violence takes shape in Jorge's explanation not simply as a symptom of ignorance and backwardness, but as a response to the conditions of intensive capitalist competition, the pains of the consignment system, and the long hours of difficult factory labor that characterize work in the apparel trade. In keeping with this view, then, the tranquility he ascribes to Tecpán comes not from some innate quality of Tecpanecos or their proximity (spatial and symbolic) to the center of modern life in Guatemala. Rather, Tecpán is not as big of a market. The volume of trade is not nearly as high as in San Francisco, which means that thieves don't have as much to steal, but also that people are not as unbalanced as they are in the midst of a market that is "the biggest in Central America."

Living Off of Others

Tecpán may be known as a tranquil town, but locals are increasingly concerned about the presence of *delincuentes* and *mareros*. In at least three of the town's four central barrios, men have organized into neighborhood watch groups and regularly "*hacer rondas*," walking through the streets at night to investigate any suspicious activity and "prevent crime," as Miguel explained to me. A prominent businessman in his barrio, Miguel is actively involved in his neighborhood organization and participates in weekly patrol shifts. Neighborhood watch associations are common around the world, from US suburbs (Low 2003) to Brazilian *favelas* (Caldeira 2001). Yet, there is a

⁵⁰ On the importance of the concept of balance to indigenous senses of self and well-being across the Mesoamerican region, see Carlsen and Prechtel 1991; Boramanse 1993, 1998; Monaghan 1995; Watanabe 1992; Fischer 2001.

particular relationship between these organizations in highland Guatemala and the nation's recent history. In the mid-1980s, after the Guatemalan military had weakened the guerrilla movement and decimated indigenous towns with its scorched-earth tactics, people throughout the highland region were forced to *hacer rondas* as members of local Civil Self-Defense Patrols and surveil their neighbors. Tecpanecos insist that the neighborhood watch organizations they are forming now are utterly distinct from the PAC and disconnected from that history. They point to the fact that people had no choice but to serve as *patrulleros* (patrollers) during the conflict, and that the military was in charge of those organizations, providing training, arms, and enforcing participation. Patrulleros were not protecting their communities, insisted Miguel, but following orders. They were forced to report on neighbors who were not abiding by government curfews or limitations on civic associations. The PACs also provided the opportunity for people, especially the *comisionados* selected by the military commanders as local leaders, to accuse local rivals of subversive actions.⁵¹ In contrast, Miguel and others told me, neighborhood watch associations are voluntary, democratic, and unarmed. Yet, current desires for increased security are often expressed and experienced in relation to the wartime context. Many highland residents, for example, express nostalgia for the 1980s, when, they say, heavy-handed political administrations kept the streets clear and the civilian crime level low. This is a common reason cited among Maya men and women for their support for former-dictator Efraín Ríos-Montt's presidential bid in 2003 and for former-general Otto Pérez Molina's popularity in the

⁵¹ For more on the patrol system and its abuses, see Manz 1988; Paul and Demarest 1988; and Schirmer 1998.

2007 and 2011 elections (Benson et al. 2008). Neighborhood associations are, at least in part, an attempt to regain certain feelings of security and control associated with the conflict era's empty streets and narrativized in terms of cohesive families, obedient youth, and organized communities.

Neighborhood watch patrols sometimes harrass and even assault young men who are presumed to be criminals simply because they are out in the streets after dark. There have also been attempted lynchings and other episodes of collective violence directed toward suspected criminals in Tecpán. In 2009, at least two cases of near or attempted lynching took place, one directed toward a young man accused of stealing meat from a local butcher shop, the other against a group of young men caught breaking and entering in a home on the outskirts of town. In the latter case, the young men were bound, beaten, and doused with gasoline, although "no one dared" light them on fire, as one man explained to me, because "if you commit that crime, it doesn't matter if the thief is guilty. Killing someone is a major offense, and that's a problem that it's better to just avoid." Human Rights and rule of law figure as obstacles to swift justice in this man's account. Everyone with whom I spoke about these two cases – even people who were standing by as others tied up the young men and beat them – expressed doubts, however, about the ethics of the harsh treatment the suspected thieves received at the hands of community members.

Many of my conversations with apparel producers and others in Tecpán turned to the causes and consequences of delinquency. "Here [in Guatemala], people want to have their own things, but they don't work," asserted Alberto Ixim, the small-scale

garment manufacturer introduced in Chapter 2, as we talked about the extortion threats that he and others in Tecpán have received in recent years. These threats follow a general pattern. The extortionist calls up a business owner, threatens his family (whom he claims to have been following for some time), and demands a one time or regular payment deposited in a bank account or dropped off at a set location. In Guatemala City, these kinds of arrangements have become common place for bus drivers and store owners in many neighborhoods. *Impuestos*, or “taxes” paid to local gangs, are a cost of doing business in urban and, increasingly, rural Guatemala. Alberto described this widespread phenomenon in terms of the personal pathologies that lead youth into an “easy life” of crime. Several manufacturers in Tecpán similarly commented to me that the problem of *delincuencia* is a problem of work ethic. They explained incidents of home invasion and robbery, pickpocketing in the busy municipal market, even alcoholism and fist fights in terms of the laziness and selfishness of young people.

Although Tecpanecos talk about crime and violence as national problems, they were also eager to root local incidents in the particular history of their town. An older garment manufacturer told me the story,

There used to be a *finca* outside of town. The man who owned it had *fincas* on the coast, too. Our whole *raza* went to work on the coast, worked for many years. One day, this man says, “Leave.” “But we’ve given a large part of our lives, so give us somewhere to live.” “Okay, I will,” he says. So he divided up the *finca*, and I don’t know if he gave it to them or sold it to them, but everyone who was working on the coast came here to that land. They made it into a *colonia*. So

those people have all the bad habits from over there [*de por allá*], and that's why they turned into *mareros*. They love to assault people and steal. That's another lifestyle [*rollo*], but they're indigenous people, just like us.

The colonia to which he refers, known as La Giralda, has grown over the last two decades to include a couple of hundred homes constructed of block and sheet metal, mostly along dirt paths that cut through fields toward the mountain range on Tecpán's northern edge. People living in the center of town often cautioned me against visiting the several dozen garment workshops scattered among these houses or even walking along the street leading to the colonia. The general consensus among Tecpanecos who do not live there is that La Giralda is overrun with gang activity. The older manufacturer recounting the story of the *colonia's* founding continued the tale by offering an explanation for why its inhabitants, many of whom were originally from Tecpán, turned to crime and violence.

Things are different on the coast. The system of work is different. There, you get up early, and because of the heat, by eight or nine o'clock in the morning, all you can do is rest. So, they pass the whole day doing nothing. Well, all of a sudden, they're getting into trouble everyday. It's like that sometimes when you have free time. It's just what comes to you to do, what is not correct. So, this was about fifteen years ago, and it started to cause problems. The kids were drinking, doing drugs, hanging out in the streets, robbing people. I think the problems we have today are rooted in that. The seed was planted years ago. Now it's a way of

life for the kids: hanging out, wearing black, and messing around (*fregar*) on the weekends.

In this man's narrative, shared among so many town residents, problems and problematic social types come from some other place, outside of Tecpán's social and geographic boundaries. *Delincuencia* is understood in terms of spatial and social disjunctures between the highlands and the coast, and between the rhythms of work in each setting. Work is a principal causative agent in the illness models that many Maya people in Guatemala share (Cosminsky 1977). The harsh conditions of plantation labor (as opposed to milpa agriculture in the highlands) make one especially vulnerable to sickness, many say, given that the hot, humid climate, distinctive plant and animal life, and difference in diet on the coast all compound the effects of the work itself, leaving the person's natural and metaphysical defenses against disease and disability dangerously weak (see McCreery 1994; Offit 2011). It is not surprising that conditions believed to produce physical illness are also invoked to explain the moral deficiencies of these migrant workers, given the complex relationship between psychophysical factors, emotional states, and moral actions that researchers have identified as central to illness models in Guatemala (Cosminsky 1977). For example, *nervios*, a common folk illness in Guatemala, is said by sufferers to be caused by anger or emotional trauma, and is sometimes interpreted in terms of a moral failure to control one's emotions (Low 1985). Illness is also commonly explained by Maya men and women as a punishment for "angry living" (Brintnall 1979). There are interesting similarities here to how *Ladino* residents of Guatemala City explain crime and violence in urban colonias. As the

anthropologist Manuela Camus (2005) notes, *capitalinos* say that Maya men and women who move to the city from the countryside become corrupted not only by *delincuentes* who prey on their naivete, but also because they become unmoored from the moral and social structures of agrarian life. They “get lost” in the unfamiliar terrain of the city (Camus 2011: 59). The cultural importance of place as a determinant of identity, morality, and health and the close association between forms of work and ways of life evident cross the ethnographic literature on the Maya (see Chapter 2) come together in these tropes of spatial displacement, disorientation, and corruption.

Part of the story of plantation labor in Guatemala is the harsh work conditions and pestilent climate of the coast. The older manufacturer’s story recounted above also cited an abundance of “free time” as a major factor in shaping the morality of people now residing in La Giralda. This was indeed a common theme in explanations of contemporary crime in Tecpán. Another producer commented to me, “This is why there is so much violence, robberies, extortion, *impuestos*, all of that: because they want to have things, but they can’t have them, not because there is no work, but because they want things to come easy.” He continued with a modified version of the story of the *finca* owner, this one focused on the rich man’s family.

That’s what happened with some folks who lived on a *finca* nearby, whose father owned the land, and he provided work for the indigenous people, and his children just watched. We watched those people, and how they have all grown up. They make all kinds of trouble. They live disordered lives.

He paused, then added, “People just want to live off of others (*quieren vivir de la gente*).” Deep histories of forced labor and inequality come together in these tales that link contemporary problems of crime and violence with a particular lifestyle encouraged by the accumulation of land and capital. It is significant that in the earlier story, people in La Giralda were displaced from their native lands by the plantation system and also given land by a rich patron. It is important here that wealth led a second generation of landowners to lives of “trouble” and “disorder.” In keeping with the discourse of envy discussed in Chapter 3, the fact that people “live off of others,” deriving benefits at the expense of neighbors – the very structure of capitalist exploitation mimicked here in criminal exploits – makes *delincuencia* more than a physical security threat. It is also a moral problem akin to *envidia* and just as threatening to social stability and community solidarity.

The notion that crime mimics formal, legal systems and the economic systems they support finds purchase in other stories told to me by Tecpán’s manufacturers. For example, many compared contemporary threats of extortion to the road blocks set up along the Pan-American Highway during the armed conflict, where armed soldiers demanded money or valuables for passage. This practice continues today among national police who stop drivers to demand bribes. Not only do legal and illegal actors engage in the same sorts of crime. As suggested by stories about how the plantation system fomented criminal behavior, extortion and theft are also echoes of the kinds of “plunder” (Mattei and Nader 2008) that colonial political structures and postcolonial rule of law have allowed in Guatemala, including the confiscation of community lands

and the exploitation of indigenous labor. John and Jean Comaroff highlight this relationship between official systems and criminal behavior in their account of the increasing crime rates evident in many postcolonial settings. They write, “[The] latter-day coming of more or less elected, more or less representative political regimes – founded, more or less, on the rule of law – has, ironically, brought with it a rising tide of lawlessness” (2006: 1). As the monopolization of force by authoritarian regimes gives way to what I have described elsewhere as the “neoliberalization of violence” (Benson et al. 2008), those who are “excluded from the spoils” of neoliberal capitalism, continue the Comaroffs, “do not so much repudiate the rule of law or the licit operations of the market” as appropriate the very forms of democratic governance and market systems to create “parallel modes of production and profiteering, sometimes even of governance and taxation, thereby establishing simulacra of social order” (Comaroff and Comaroff 2006: 5, 9). *Impuestos* are paid more faithfully to gang members than to state agencies in Guatemala, a fact that is justified by garment producers in terms of government corruption. “A million *quetzales* in the pockets of some official are gone in under a year, spent on failed projects and luxuries,” said one manufacturer. He continued, “A hundred *quetzales* in the pockets of an entrepreneur, it multiplies. The official who steals is really the guilty one.” Drug traffickers have taken over large sections of Guatemala’s northern departments as well as capital city neighborhoods, acting as sovereigns over these territories in order to move cocaine and other illicit drugs northward. The transition from authoritarianism to nominal democracy created a security vacuum insofar as the post-war police force and judicial system have never been sufficiently funded (Glebeek

2001; Sieder 2003; Thale 2011). With similarities to the Colombian case, violence and security have now become two sides of the same coin, with private security forces hired by the nation's elite and ex-military enlisted by drug cartel bosses patrolling the streets and maintaining their own "simulacra of social order" (see Laplante and Theidon 2006).

If lawlessness is a simulacrum of the models of law and order promoted by the state and international institutions, local forms of *delincuencia* are also viewed by many Tecpanecos as copies of the "real" crime that plagues the capital city. Threats of extortion and violence against garment manufacturers in Tecpán are often serious and indeed dangerous. In one case, a young seamster at a large workshop was identified by police as having been involved in a kidnapping in Chimaltenango, and although subsequently arrested, began making threats through his accomplices to the workshop owner and his family. At the same time, there is a sense among many producers that youth adopt the dress styles and bodily hexus of *delincuencia* that they see in the media, perhaps even engaging in petty criminal activity due to pressure from peers, but that their delinquency is merely an imitation of the criminal lifestyle. They are, in effect, copycats. A young manufacturer who said he knew many of the supposed *delinquentes* who hang around the corners in their baggy jeans said to me,

There are some kids here who don't have any power, who just imitate others but don't do anything. They are kids who imitate, they do drugs and all that, but they don't kill anyone. Sometimes they grab a person and extort money from them, from people who come from the aldeas. They grabbed my brother once, and he told me, so I went with him and told them to back off. So, maybe they tried to

get money from people here [in town], but the people didn't let them, so they started up with people from the *aldeas*.

He implies here that people from the *aldeas*, more naïve about youthful pranks and perhaps less able to discern between the “original” criminals and the “imitations,” give in to demands for money more easily than residents of the town center. In other stories I was told about experiences of crime and violence, this ability to distinguish between real and fake threats was an important dimension of how people contend with insecurity. The owner of a well-known workshop that specializes in men's sweaters recounted how he had received a phone call from a man demanding a thousand quetzales. “It was extortion. And because I didn't know any better – one gets confused and doesn't know how to handle things – so I paid them.” He goes on to describe how, after additional phone calls and payments, he began to sense that the threats the caller was making against him and his family were not real, and ventured to gamble on that feeling.

They called again and told me the same story over and over, a story about how they are with an organized crime ring, that they know me, they know when I come in and when I go out, they know my family ... and they need this amount of money. So, they start to tell me this same story over again, and I reacted. I said, “Look, you're screwing with me. Why are you asking for money again?” And I had the receipt from the bank where they told me to deposit the money, and there was a name on the receipt. So, I told them, “I know who you are. I have

proof against you, so now I'm going to screw with you. Go fuck yourself!" And *pum!* [He slams the phone down.] And that was it. That was three months ago. Based on the fact that the caller seemed not to remember having told him the story before, and emboldened by possibly having the extortionist's name on the receipts for the bank deposits, he refused to deliver another payment. I asked him how this could happen, that someone would be acting like a dangerous criminal, but not actually pose a threat. He replied,

Just like in the capital, they say, "Let's charge an *impuesto*," and they say to you, "We're from *Mara 18* and we want this." But maybe they are not even really *mareros*. After I hung up, I disconnected the telephone, and they never bothered me again. In the end, I realized that they were in jail.

It is indeed common for extortion rings to be run by gang members in prison (O'Neill 2010), and this fact circulates among manufacturers as they and their neighbors confront threats and decide how to deal with them. This man determined that if the people were calling from jail, they could not likely carry out the threats made against him and his family. Even so, when I asked him why he had not turned the receipts over to the police, he replied that escalating the matter to an official accusation could also transform it "into something real." His mistrust of the police and the criminal justice system led him to assume that if he "informed" on the extortionists, they would surely avoid prosecution, and his act of aggression against them would be reason for them to come after him and inflict real harm. Here, engagement with the formal, legal system is viewed not as a security strategy, but as a way to augment a situation of insecurity.

Safe for Business

I asked Miguel Tecúm if his neighborhood watch group hopes to discourage youth from being out in the streets at night. He replied:

No, we're not going to enact a state of siege! On the contrary, what we want is to be out and about. Principally, we're a group of reasonable people, people who are in charge of businesses, and our businesses make us people who try to do things in ways that are thought out, so that we don't have any problems. Our main goal is to continue working.

Miguel invokes the military's enforcement of curfews during the armed conflict by the PAC – facilitated by the declaration of a national "state of siege" – to vividly contrast that security approach with the activities of his watch group. He views the group's activities as preventative rather than punitive, as productive of economic activity rather than repressive of activities and freedoms. Business success, in his explanation, is a main impetus for securing the streets in town. Jorge, who described San Francisco El Alto as an "organized" town, also discussed how the community had come together principally to protect and promote commerce. These explanations align with neoliberal security approaches that presume the interests of capital will ensure public safety, since capital needs safe places and secure consumers to flourish.

What a narrow focus on this kind of convergence might miss, however, is the understanding, also expressed by so many garment manufacturers, of how the capitalist system is itself a source of deep tensions and insecurities, crime and exploitation. What is more, violence, security, and corruption do not always inhibit commerce.

Multinational capital, notes James Ferguson (2006), is often keen on exploiting conditions of insecurity and government corruption to its own ends. Numerous social scientific studies characterize Guatemala as one of many “failed states” in post-Cold War Latin America,⁵² with intellectual property protections, for instance, understood as yet another victim of institutional weaknesses that prevent the state from carrying out its basic functions. But from an ethnographic perspective, the effective enforcement of rule of law, including IPR laws, is not an unambiguous sign of a successful government or robust economy. Even as the social epidemiology in perpetually developing countries worsens, opportunities for extraction are often consolidated and there exist strong legal and economic protections for multinational capital – from patents for essential medications (Biehl 2007) to licensing agreements for mineral extraction and mining (Kirsch 2006) to trademark laws for global brands – that disadvantage citizens.

Ineffective governance linked to institutional problems such as corruption and the hemispheric problem of drug trafficking may be what is most visible about Guatemala to policy analysts and social scientists in the current moment. But the crisis of legitimacy facing Guatemala and other Latin American states is deeply connected to historical legacies of colonialism and postcolonial modes of exploitation that leverage legal and trade relationships to satisfy international market needs over and above those of the nation’s poor majority. The neoliberal economic reforms that Guatemala has adopted since the 1980s have exacerbated conditions of inequality that often break down along ethnic lines, with increasing disparities in education, health, housing,

⁵² See, for example, reports by the Brookings Institution (Rice and Patrick 2008) and *Foreign Policy* and the Fund for Peace (2011).

socioeconomic status, and access to capital affecting indigenous Guatemalans (Thomas et al. 2011, Chase-Dunn 2000, Robinson 2003). Despite the role of international finance institutions and formal colonial powers in creating these conditions, the blame for such outcomes generally falls on the backs of the governments of resource-poor nations when “structural-adjustment policies begin to bite” (Ferguson 2006: 101). International law, including intellectual property protections, in turn, provides a globally-sanctioned discourse that governments can readily adopt to transfer blame directly onto groups of citizens that come to be seen as illicit and problematic. In Guatemala, one encounters not so much a culture of piracy as a shifting context of accountability, what Mary Douglas (1992) might refer to as an unfolding “forensics” of blame in the context of large-scale political and economic processes that often involve the delegation of risk and responsibility onto marginalized groups.

Conclusion

The local context of clothing production and consumption explored in this dissertation offers an ideal case for thinking about the global spread of neoliberal legal and economic regimes. I have analyzed significant gaps in the universal application of IPR law between what fashion and branding mean in highland communities and how they are understood in international projects of legal harmonization that are also about re-branding and re-imagining the Guatemalan nation. Most critical engagements with brands are ethnographically and analytically oriented toward contexts where branding logics presumed by trademark law hold up, where logos are understood as “signatures of authenticity” (Coombe 1996), for example, that connect corporations and consumers through webs of affect and meaning.⁵³ My concern has been with how brands figure into a cultural setting where the rationalities promoted in IPR law cannot be taken for granted; in this case, a lifeworld where brands are viewed as design elements, markers of gender, ethnicity, and class, and abstract signs of global modernity. I argue that the differences and exclusions produced as IPR law circulates globally constitute a valuable object of anthropological study insofar as the moral and political economies at the edge of the hegemonic brand form help us to understand how neoliberal regimes of governance and ownership reproduce structures of inequality and disenfranchisement on an international scale and on a national level in countries like Guatemala.

⁵³ See, for example, Lury 2004; Mazzarella 2003; Manning and Uplisashvili 2007; and Foster 2007.

The brand form is intrinsic to postwar statecraft in Guatemala. Neoliberal economic reforms amplify the presence of brands in the public sphere by opening the national market to imports, encouraging export production that positions Guatemalans as laborers in factories that produce branded commodities, and impelling the nation-state to publicize itself in order to attract foreign investment and tourism dollars. These same reforms imply piracy since they compound conditions of social and economic inequality, making it impossible for Maya people to access “authorized” versions of cosmopolitan signs of status and affiliation even as they provide the infrastructure and materials necessary for piracy production. Crackdowns on piracy in local markets and harmonization with global IPR frameworks disadvantage Maya producers vis-à-vis foreign capital. Yet, like other Guatemalans, they are invited to participate in a modernist vision of citizenship and social progress, emphasizing Western ideas about property, legality, and multiculturalism. In the highlands, participation in such projects tends to exacerbate class and gender inequalities in local communities and encourages a privatized model of indigenous identity mediated by branded commodities and formal market transactions. The brand emerges within this context as a powerful medium through which claims to legitimacy and authority and senses of belonging are negotiated at national and local levels.

This dissertation challenges scholarly and popular portraits of piracy as a deviant and underground activity that states must root out in order to protect the national welfare and national sovereignty. IPR protections are one set of legal mechanisms through which Guatemala is supposed to become a fully modern nation-state in the

aftermath of the armed conflict, demonstrating to the international community that the country is on the “progressive path” toward development (Vann 2006:289), and its citizens reoriented toward formal, rational market participation. An ethical problem arises when the structural inequalities that make such modes of participation unlikely are transformed into legal problems of guilt and innocence.

Participants in Guatemala’s informal sector are not strategically engaging in illegal behavior because of a proclivity toward crime. Indeed, crime and violence are a central concern for many of them. Rather, garment manufacturers and other participants in informal economic activities are structurally positioned as illicit actors in the context of neoliberal economic programs that promote entrepreneurship as the key to national progress at the same time that global regimes of governance criminalize modes of entrepreneurship that challenge hegemonic definitions of ownership and authority. Approaches to legal reform and business ethics that do not take into account such paradoxes and local responses will have little impact on piracy markets and risk contributing to conditions of inequality and marginalization affecting already disadvantaged populations.

This dissertation has also traced a complex politics of mimicry, imitation, and assimilation that animate daily life more generally in contemporary Guatemala. Brand pirates copy global brands, but they also negotiate an uneasy relationship to First World models of development and progress touted by the Guatemala government and networks of international agencies and volunteer organizations. Anthropologists have looked at how market ideologies become embedded in development programs at

national and local levels through the work of state agencies and NGOs.⁵⁴ In Guatemala, various development projects, from Peace Corps initiatives to microcredit programs, attempt to rectify the economic disparities that face indigenous Guatemalans by encouraging petty capitalist activities, often offering small loans or technical training to jump-start an individual or group's enterprising potential. Yet, the value, in economic terms, of entrepreneurship for the people of Guatemala seems greatly exaggerated given the failures of neoliberal reforms to address the country's social and economic problems (Chase-Dunn 2000; O'Neill and Thomas 2011).

It would be difficult for this type of intervention to attend to the broader contexts of social suffering and structural inequality that make life difficult for Maya people. Still, the discourse surrounding entrepreneurship in scholarship and among its promoters on the ground in Guatemala treats capitalist enterprise as if it were *the* answer to improved quality of life and standards of living. As my analysis of the apparel trade demonstrates, some Maya people have improved their level of cash flow and comfort by participating in capitalist enterprise. My point, then, is not that entrepreneurship never benefits individuals and families in highland Guatemala. Capitalist development, even at this small scale, however, is uneven. The gap between affluence and poverty widens and contributes to contexts of local conflict and feelings of insecurity. And the material gains that families in Tecpán have made are as much the result of communal networks of resource and information sharing and exchange as they are the product of development projects or the market's invisible hand.

⁵⁴ See, for example, Ferguson 1990; Cooper and Packard 1997; and Gupta and Sharma 2006.

Campesino to Comerciante

Piracy production intersects in important ways with the politics of indigeneity and multiculturalism in Guatemala. Throughout this dissertation, I have examined the cultural implications of commercial enterprise for Maya men involved in the apparel trade, from the moral hazards that accompany business success to the privatization and marketization of indigenous identity through formal branding initiatives. In this conclusion, I want to briefly highlight the ambiguities and existential insecurities that surround entrepreneurship and commerce in the highlands in order to emphasize the contribution this dissertation makes to the study of economic change and capitalist development in Guatemala.

Anthropologists have written a great deal about economic transformation and occupational change among Maya men and women. These studies focus on the complexities of the proletarianization of Maya people through plantation and factory work (Watanabe 1992; Goldín 1992, 2001; Green 2003) or the resistance of indigenous *comerciantes* to proletarianization through the development of their own cottage industries and marketing networks (Smith 1978, 1984; Tax 1957). Other work examines processes of political and religious reorganization that have accompanied the rise of an indigenous commercial class or landed elite in Maya towns.⁵⁵ One goal of much of this literature has been to analyze change and continuity in “Maya culture,” a term that held traditional ethnological significance in early studies, as when Manning Nash relied on the “customs” of the K’iche’ Maya of Cantel, whose “blend of Spanish-Indian culture

⁵⁵ See Brintnall 1979; Grandin 2000; Nash 1958; Velásquez Nimatuj 2002; Carmack 1995; and Annis 1987.

[had] more or less stabilized in the area some 400 years ago,” as a “base line” from which to chart changes that accompanied the founding of a textile factory in that Western highland town (1958: 6). More recent ethnographic accounts of the Maya have troubled “the ‘archaeo-romanticism’ evident in studies of Maya cultural continuity” (Fischer 1999: 475). As is true across the field of anthropology, culture has become a much more fraught concept.

Reflecting on a public debate in Guatemala City between an indigenous activist and a *Ladino* critic regarding the legitimacy of Maya cultural rights claims, Edward Fischer writes that “Maya scholars and peasants alike continue to assert the legitimacy of an essentialist paradigm, arguing that there is a metaphysical quality to Mayaness that transcends the minutiae of opportunistic construction to unite individuals and communities across both time and space” (1999: 476). Kay Warren writes of the “invisible thread of ethnicity,” an idea promoted by some Maya activists that connotes “a common history [and] culture, a collective memory, religion, ways of dress, and future aspirations – in short, a deeply felt essence no one else shares” (1998: 197). Such assertions by indigenous leaders, although politically expedient and reflective of genuine sentiments of group identification and solidarity, leave contemporary anthropologists in a jam. Fischer, initially compelled by his social science training to “document the constructed nature of Maya identity,” found himself “reexamining his own preconceptions” (1999: 476). His fieldwork in Tecpán and neighboring towns provided mounting evidence, he writes, of what he calls a “Maya cultural logic spanning community boundaries that simultaneously conditions individual agency and reflects

changing consensual ethics that have emerged from practical activity in local and global contexts.” Maya culture, he reasons, is localizable in a logic that provides a “broad shared foundation for comprehending and producing thought and behavior” (1999: 478). Drawing on other research in the Maya region (Hunt 1977; Watanabe 1983; Carlsen and Prechtel 1991), Fischer asserts that Maya cultural logics find their bases in cosmologies derived from interactions with the natural world, especially agricultural cycles. He writes,

The agrarian roots of Maya culture ... are historically related to contemporary cultural concerns and conceptions. This cultural heritage has conditioned the high value placed on ownership of land and control over one’s means of production by most Maya in Tecpán ... This valuation is, in turn, a key organizational principle of Maya cultural economies and has had a significant impact on changing modes of production. (Fischer 2001: 216)

Fischer’s work on pan-Maya activism and cultural logics provides a rich context for analyzing forms of nostalgia for rural life that I encountered among Tecpán’s apparel manufacturers, whose stories about the changing values and practices associated with commercial enterprise revealed a significant degree of reflexivity on their part about what it means to be Maya when one is *not* a rural farmer. Indeed, the oral histories I drew on in Chapter 2 often revolved around two stereotyped figures: first, the Maya *campesino*, imagined as a penniless farmer who struggles to find a way to better himself and his family’s prospects; and, second, the Maya *comerciante* who has adopted modern life ways and is a few steps removed from the cultural beliefs and practices, and

the poverty, of rural life. In these stories, the *campesino* often emerges as a figure who belongs to the past, either the workshop owner's personal past or some shared history in which he implicates himself. My inquiries into the history of the industry and the biographies of individual producers seemed to stir up a desire in them to share, at least with an outsider and an anthropologist, something of the lives of an older generation imagined as bastions of Maya culture and indigenous values. Even as they espoused progress narratives about their own entrepreneurial success, many producers sought to ground their identities firmly in the traditional figure of the *campesino*.

As discussed in Chapter 3, class and ethnic solidarity are important values among Maya garment producers, and emphasis on a shared agrarian past is one way to mediate the realities of class stratification and economic differentiation among indigenous men. At the same time, the politicization of indigenous identity since the 1970s means that what it means to be indigenous is a topic of regular conversation and reflection not only among indigenous leaders, but among Tecpanecos in general. The town is a dish for culturing culture and dishing. Fischer and others document the kinds of conversations that took place in the early days of the pan-Maya movement when leaders began to sort out what symbols, values, and practices would be treated as most significant and emblematic for advancing a cultural rights agenda (Warren 1998; Cojtí Cuxil 1987, 1996; Fischer and Brown 1996). For example, language was considered a politically-innocuous starting point for many groups in the early days of democratic reform in Guatemala, though there was lively debate among Maya intellectuals and activists about how Maya languages should be promoted and protected (Fischer 2001:

98-99; see also Warren 1998, Appendix 2). These debates continue in the most mundane of contexts in towns such as Tecpán that have been so thoroughly enmeshed not only in a national political movement but also in waves of cosmopolitan interactions that have repeatedly called on Maya men and women to identify in particular ways and be ready to explain what that identification means to them. In my conversations with various men and women in Tecpán, some of whom identify as indigenous activists, the conversation often turned to gossip about just how “Maya” a neighbor was, given that he no longer bathes in the traditional *tuj* (sweat bath); whether or not Evangelical families are still “Maya” since they reject traditional spiritual practices; or, how other people around town have lost their “cultural values” because they no longer keep chickens or tend their own *milpa* plots.

There are many reasons that a Maya person might share such gossip with a *gringa* anthropologist. There is likely the expectation that anthropologists are looking for authentic Maya culture, which informants might then attempt to represent or on which they might claim to be an authority. Many other North American anthropologists have spent time in Tecpán, whether passing through or carrying out extended field studies, and most of this work has indeed centered on understanding various aspects of “Maya culture.” Peace Corps volunteers, international aid organizations, and, more recently, microloan agencies arrive in Tecpán looking for *Maya* men and women to involve in their projects and programs. All of this is not to mention that Guatemalans live in a society that has long defined all kinds of political, economic, and social relationships based on a binary between indigenous and non-indigenous populations.

Tecpanecos are accustomed to reflecting on difference, talking about culture, and thinking about themselves and other people in terms of ethnic categories and outward signs of ethnic identity. Throughout this dissertation, I have attempted to take this context of reflexivity into account in my analyses. I am not as interested in locating the origins, finding the common threads, or even identifying contemporary forms of Maya culture as I am in understanding indigeneity as a complex set of practices and negotiations and a heavily politicized and commercialized form of identification not only in Guatemala but on a global scale. How people relate to the beliefs, values, and practices that they or others view as part of “Maya culture” must be understood as part of a dynamic and discursive field.

A conversation with Francisco Toc, an ex-*guerrillero* turned apparel producer now living in Chimaltenango, began with a simple question about how his parents earned a living, but unfolded into a model example of the *campesino* to *comerciante* story.

Well, working in agriculture is part of our culture as indigenous people, certainly part of our *formación* [formation, upbringing]. In my case, personally, with my father, there were ten of us children, and it was very difficult to send all of us to school. So part of indigenous culture is that you don’t know what a vacation is, what trips to the country [*al interior*] are, not to mention to another country!

Because the size of the family limits what you can do.

Immediately, Francisco enjoins his personal narrative to a broader image of “indigenous culture,” procuring a definition for that term from his own experience, but also drawing

on stereotypical images of the Maya that circulate nationally. Indeed, the cultural traits that he emphasizes – indigenous people have large families, no knowledge of life beyond the village and the fields, are uneducated – are at once nostalgic images of a shared agrarian past that is also a context of deep subordination, as he later points out, and also the markers of difference that the Guatemalan state and *Ladino* citizens have exploited in order to justify discriminatory policies and practices.

As Francisco continues, the story becomes more deeply personal, not least because he seeks to explain to me, the anthropologist, why he no longer fits such stereotypical portraits.

My father had animals, and before we left for school we had to bring them hay, then we'd eat something at 6:30 in the morning and we were off to school. So, it is part of the culture – working in the fields, everything having to do with the harvest and agricultural work. But, based on the strength and effort of my father – he had a very broad vision – he didn't want us to stay like we were in the country, he didn't want us to follow his same footsteps, so that we could do a little bit better. He made huge sacrifices to allow us to pursue our studies, and made us realize how far we could really go.

Here, Francisco firmly grounds himself in the day-to-day life of the *campesino*: rising early, feeding the livestock, placing work above studies – “before we left for school, we had to bring them hay.” That he returns again to a refrain about indigenous “culture” seems strategic, as if he wishes to underscore that he is, at base, an authentic indigenous person, raised in the traditional ways of life. Yet, I have not questioned that

fact. Instead, Francisco seems to be responding to a larger social context, in which his lifestyle, his work, and his fluent Spanish might be interpreted as signs that he has abandoned, perhaps even outright rejected, “indigenous culture.”

Francisco is one of a generation of Maya men who, on an intimate level, wrestle with dramatic differences between their lives and social positions and the rural spaces and ways of life they left behind in the 1970s and 80s. The image of indigeneity they carry with them, and that promoted by the political movements in which they have been involved, is of a person who works the land, speaks only Kaqchikel or K’iche’ or Tz’utijil or Mam, and has little or no access to education. This new generation, like the “Maya hackers” about which Diane Nelson (1999) writes, find themselves relatively well-educated, some with university training, speaking Spanish fluently but perhaps feeling a bit clumsy with the Maya language spoken by their parents, and working under a roof each day rather than out in the sun. They not only travel by bus and hired pick-up trucks, but sometimes own cars. They talk on cell phones, whereas a generation ago, for instance, there was only one telephone in Tecpán and none in the aldeas. They use computers to keep business records and surf the Internet for design ideas.

Francisco feels compelled to explain how it is that his life differs so dramatically from that of his parents, but also why it is that he left the hamlets and the indigenous towns, the places where “culture” thrives, to live in Chimaltenango, where *Ladinos* make up at least twenty percent of the population but are “generally dominant in relation to the indigenous majority,” and where indigenous people themselves are increasingly moving into a “large and growing sector of *chimaltecos*,” a term that, like

capitalinos (residents of Guatemala City), implies that one refuses “both sides of the *Ladino*-Indian binary” in favor of an identity based primarily on urbanism (Hale 2006: 2). Francisco continues, “So, why are we in Chimaltenango? Because of the same old problems in Guatemala.” He goes on to detail the “US invasion” in 1954 that sparked the “revolutionary movement,” and explains,

We were born in conflict, in a war-torn country. Even if we weren’t born in 1954, we were born in the middle of a conflict that was building and building until 1975 and into the 80s, and we had to come to terms with the politics of our society, one way or the other, and we saw that it was necessary to involve ourselves in the political life of this country.

His use of the first-person plural could refer simply to him and his wife, who is sitting by his side throughout the conversation and who also joined the leftist political movement during the armed conflict. It could also refer to his fellow *guerrilleros*, all those who felt a similar pull to participate in “political life.” But, in the context of this story about leaving his father’s fields and pursuing something “a little bit better” than the life of a *campesino*, there is also the implication that he is speaking for an entire generation of indigenous people, those born after the coup, who were forced by international events and an internal war to choose sides and, at times, pick up arms.

Land remains a central motif in the story. Rather than working the land, he says that those of his generation “had to either run away or die *en la tierra de uno* (in one’s fields).” After some time training with a political party and fighting “in the mountains,” he and his wife and infant daughter soon faced the kidnappings of three close family

members by the army, and decided to flee their home in Tecpán. “We first went to the capital, then came back as far as Chimaltenango, with the hope of returning to our hometown some day because it was part of our identity,” he explained.

But time passed, our children grew up, and it was difficult here [in Chimaltenango] because it wasn’t our culture. We had to work very hard, my wife didn’t want to go back to Tecpán, and, in the end, we had to stay here. But always with the uneasiness of not having a steady job and having to just find something to do to earn a living. Eventually, I had the great necessity of setting up a business, which is where we still are today.

Francisco exerts a great deal of effort at this point in the story to explain his decision to become a businessman. For certain, his current occupation as a capitalist *negociante* and *comerciante* seem to contrast with the leftist ideology he took up during the conflict – on two occasions during our various conversations he quoted Marx, and several times quoted the writings of Latin American leftist revolutionaries. His current occupation also threatens his identification with the *campesino* figure represented by his father and the “*pueblo*” whom he fought to defend. “We had to find a way to survive, so we took up the life of *comerciantes* without knowing where it would lead. ... And now, as part of the commercial life, even as a Guatemalan I’d say, one has to adopt the ideas of the transnational countries, the ideas of commerce, because they work, and we don’t know how else to be.” In the end, he justifies his current occupation, without being asked for justification, by citing his forced displacement from indigenous life and the indigenous community in which he and his wife were brought up, which meant that traditional

forms of work were also no longer available to them. The need to simply make a living led him to adopt commerce, which is, in any case, what the “transnational countries” – those that have influence in determining world affairs – push on countries like Guatemala that have no other alternative: “we don’t know how else to be.”

Francisco’s story illustrates the brand of nostalgia that has taken shape among apparel producers who lament that Maya culture and values have been lost during the transition to commercial enterprise. As the anthropologist Kathleen Stewart notes, nostalgia often emerges as a way to place oneself in time and space within late capitalism (1988: 227; Neitz 2005: 245). She writes, “On one ‘level’ there is no longer any place for anyone to stand and nostalgia takes on the generalized function to provide some kind (any kind) of cultural form. In positing a ‘once was’ in relation to a ‘now’ it creates a frame for meaning, a means of dramatizing aspects of an increasingly fluid and unnamed social life” (Stewart 1988: 227). Nostalgia is an act of demarcation, a desperate attempt to fix the free-floating signifiers, the simulacra, that Jean Baudrillard (1994) argues fill the tableau of postmodern life. It is expressive of a desire to make the past and its cultural objects legible, something that can be understood and evaluated within a hierarchy of cultural distinction. Maya men and women, who are perpetually posited within a national cultural in Guatemala as belonging in some primordial way to rural spaces (Nelson 1999), but who have been either forcibly, as through war, or rather gently, as through the inheritance of a workshop, “displaced” from the fields, find a new sort of grounding in images of a rural past marked by clearly-defined patterns of work, value, and sociality. Late capitalism is evident here not only in the emergence of

commercial enterprise as *the* path to development in Guatemala, but also in the model of “neoliberal multiculturalism” promoted by international organizations, the Guatemalan state, and ordinary people in Tecpán, Chimaltenango, and other towns around the highlands who are trying to come to terms with emergent national discourses that delegitimize historical forms of racism but nonetheless uphold a myth of clearly-defined and demarcated ethnic categories within the newly “pluricultural” nation-state (Hale 2006).

Mimesis and Assimilation

“The wonder of mimesis,” writes the anthropologist Michael Taussig, “lies in the copy drawing on the character and power of the original, to the point whereby the representation may even assume that character and that power” (1993: xiii). In his example of the carved dolls valued among Cuna shamans, he argues that the replica takes on the power of the original – that is, the Western colonial figures after which the dolls are fashioned – through its reproduction of an external form. The history of piracy is a history of mimesis. The same processes of movement, contact, violence, and globalization that condition the modes of colonial mimesis that interest Taussig fuel both old and new kinds of piracy. Eighteenth-century buccaneers mimicked the form and function of the colonizing states they irritated with their plundering attacks, bothersome for European powers not so much because of their disruptions of formal, legal trade, but because of their indiscriminate nature, their refusal to choose sides, to declare allegiance to one nation or another (Konstam 2008).

Guatemala's "modern pirates" (Menocal 2005), from the clothing manufacturers in Tecpán to the DVD vendors in the capital city, are masters of mimesis, reproducing the simulacra of popular culture that is at once global and not theirs, a culture that everyone shares but that someone else also owns. Brand piracy in Guatemala asserts itself in that gap, in the space between the cultural commons and the privatization of intellectual and cultural property, between the shared space of globalization and the exclusionary forces of neoliberal capitalism. On multiple levels, brand pirates trouble boundaries between authentic and inauthentic, real and fake. They simultaneously harness the representational capacity of the brand form and of fashion and refuse full allegiance to the law, the state, or the global economy's hegemonic models of progress and modernity. Garment manufacturers have embraced entrepreneurship, some of them with great conviction, but never without continuously struggling with the social and moral dilemmas that commercial enterprise poses to themselves and their communities.

This study of brand piracy thus speaks not only to the failures of "legal harmonization," that is, the standardization of legal systems across nation-states in the new global order, but also ongoing struggles over assimilation and difference in the postcolony. In post-apartheid South Africa, a central goal was to establish "One Law, One Nation." Jean and John Comaroff describe the national and international focus on singular rule of law in this transitional context as follows: "The ways and means of the law are attributed an almost magical capacity to accomplish order, civility, justice, and empowerment" (2004: 192). As critical legal scholar Balakrishnan Rajagopal puts it,

development experts, security analysts, and human rights activists all “desire to escape from politics by imagining the rule of law as technical, legal, and apolitical” (2008: 1349).

Legal scholar Ugo Mattei and legal anthropologist Laura Nader echo these interpretations:

The false representation [of rule of law] starts from the idea that good law (which others “lack”) is autonomous, separate from society and its institutions, technical, non-political, non-distributive, and reactive rather than proactive: more succinctly, a technological framework for an “efficient” market. Because of these false representations, good governance that ostensibly characterizes the law’s purposes becomes the backbone of naturalized professional arguments that are marshaled to legitimize plunder. (Mattei and Nader 2008: 5)

International institutions such as the World Bank and the IMF, they contend, operate with one goal: “build a simple and universal rule of law capable of stimulating efficient transfers of property from whoever values them less to whoever values them more” (2008: 75).

My view of the global spread of intellectual property law to countries such as Guatemala is similarly concerned with the outcomes of legal globalization for people like Tecpán’s garment manufacturers. The very frameworks of free trade and “good governance” promoted by international finance institutions and First World nation-states has “contributed to the growth of piracy” by impelling small-scale, informal enterprise and allowing the importation of inputs that facilitate copying (Cross and Hernández 2011: 515; Cross 2008; Aguiar 2010). In the apparel business, these inputs

include the surplus of second-hand knitting, sewing, and embroidery machines from the US and Europe, where firms are often in the process of off-shoring production to Asia or Latin America. Maya producers face intense competition from multinational and foreign firms who import “authentic” goods but also pirated versions of popular brand-name fashions. International law ignores these contextual factors, the conditions of possibility for the proliferation of piracy, in favor of a moralizing discourse of criminality. In Guatemala, then, I find that efforts to establish rule of law in the domain of intellectual property more often serve as alibis for not attending to empirical conditions of insecurity than as mechanisms for promoting economic welfare or social justice. The kinds of problems confronting Guatemalan Mayas, including historical burdens of discrimination and exploitation and the social structures perpetuating those histories, often fall outside the purview of the law, or are, as in the case of the war on drugs or neoliberal trade policies that underpin criminalized behavior, effects of the global legal regime.

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